

EXHIBIT A

MARILYN HOLLEY - 04/05/2017

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEW JERSEY

3 KIMBERLEE WILLIAMS,)
4 et al.,)

5 PLAINTIFFS,)

6)

7 vs.) CIVIL ACTION
8) NO. 11-CV-01754

9 BASF CATALYSTS LLC,)
10 et al.,)

11 DEFENDANTS.)

12

13

14 - - - - -
15 THE VIDEOTAPED DEPOSITION OF MARILYN HOLLEY
16 WEDNESDAY, APRIL 5, 2017
17 - - - - -

18

19 The videotaped deposition of MARILYN HOLLEY,
20 called by the Defendants for examination pursuant
21 to the Federal Rules of Civil Procedure, taken
22 before me, the undersigned, Sarah R. Drown, Notary
23 Public within and for the State of Ohio, taken at
24 the offices of Thompson Hine LLP, 3900 Key Center,
25 127 Public Square, Cleveland, Ohio, commencing at
10:01 a.m., the day and date above set forth.

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1 APPEARANCES:

2

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ALSO PRESENT:

Alex Cook, Videographer

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1 THE VIDEOGRAPHER: We're on the
2 record. This is the beginning of the video
3 recorded deposition of Marilyn Holley in the
4 matter of Kimberlee Williams, et al. versus
5 BASF Catalysts LLC, et al. in the United States
6 District Court for the District of New Jersey,
7 civil action number 11-CV-01754.

8 The time on the video monitor is 10:01.
9 Today's date is April 5, 2017. The video
10 operator today is Alex Cook.

11 Will counsel please identify yourselves
12 and who you represent.

13 MR. COREN: Good day. I'm
14 Michael Coren. I'm representing the plaintiffs
15 in the Williams case, including Ms. Marilyn
16 Holley who is present here today.

17 MR. PLACITELLA: Jared
18 Placitella for the plaintiffs.

19 MR. ASSAF: Gene Assaf for
20 defendant BASF.

21 MR. FARRELL: Peter Farrell
22 for BASF.

23 MS. DALMUT: Elizabeth
24 Dalmut for BASF.

25 MS. FIELDS: Cassandra

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1 Fields for Cahill Gordon and the individual
2 defendants from Cahill Gordon.

3 MR. GEYERMAN: Grant Geyerman,
4 William & Connolly, for Cahill Gordon &
5 Reindel, Peter Sloane, Ira Dembrow.

6 THE VIDEOGRAPHER: The court
7 reporter today is Sarah Drown.

8 Will the reporter please swear in --

9 MR. TUNIS: Eric Tunis --
10 excuse me. I assume we're supposed to put our
11 appearances in. Eric Tunis on behalf of Thomas
12 Halket.

13 MR. MARINO: Kevin Marino
14 and John Boyle by telephone on behalf of Arthur
15 Dornbusch.

16 MARILYN HOLLEY
17 of lawful age, called by the Defendants for
18 examination pursuant to the Federal Rules of Civil
19 Procedure, having been first duly sworn, as
20 hereinafter certified, was examined and testified
21 as follows:

22 EXAMINATION OF MARILYN HOLLEY

23 BY MR. ASSAF:

24 Q Good morning, Ms. Holley.

25 A Good morning.

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1 Q Do you understand you're a class representative
2 in a lawsuit?

3 A Yes.

4 Q What's your understanding of your obligations
5 as a class representative in this case?

6 A I represent the estate of my mother, Kathryn
7 Darnell, and the other class members.

8 Q And who are the other class members, if you
9 know?

10 A I don't know them by name, no.

11 Q Do you know who they are?

12 A Yes.

13 Q Who are they?

14 A There are other defendants in this matter. I
15 mean other plaintiffs in this matter.

16 Q And do you know how many of them there are?

17 A No, I don't know how many.

18 Q Do you know where they are?

19 A No.

20 Q Do you know what the circumstances are to make
21 them class members?

22 A To the best of my knowledge, they're class
23 members because they were also harmed in this
24 matter.

25 Q Were you harmed in this matter?

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1 A By way of my mother.

2 Q And would you describe for me how you believe
3 you or your mother were harmed.

4 A My mother worked at BFGoodrich in Akron, Ohio,
5 where she was exposed to asbestos. And she is
6 a plaintiff in this matter and I represent the
7 estate.

8 Q Do you think that she was exposed to talc?

9 A Yes.

10 Q What's your factual basis to believe that?

11 A Just by the fact that she worked there and what
12 she said.

13 Q What she said to you?

14 A Yes.

15 Q When did she tell you that she was exposed to
16 talc?

17 A Just in her description of the job and what she
18 did.

19 Q But did she tell you specifically -- withdrawn.

20 I understand she told you she was exposed
21 to asbestos.

22 A Right.

23 Q We're going to get to her deposition later on.

24 A Okay.

25 Q Have you read her deposition?

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1 A I have not read her deposition. I was present
2 at her deposition, one of them, yes.

3 Q And do you recall that she testified that she
4 was exposed to asbestos?

5 A I don't recall exactly what was said.

6 Q Do you recall anything about her discussion of
7 talc at the deposition?

8 A No, I can't say that I do.

9 Q Apart from the deposition, do you recall her
10 discussion of talc with you? Not asbestos,
11 talc.

12 A I don't recall. I'm not saying that she
13 didn't, but I don't recall.

14 Q As we sit here today, you don't recall any
15 discussions of talc with her?

16 A I don't recall.

17 Q And with respect to conversations with your
18 mother, do you ever -- did you ever discuss a
19 company called R.T. Vanderbilt?

20 A No.

21 Q Did you ever discuss a company called Emtal?

22 A No.

23 Q Did you ever discuss a company called
24 Engelhard?

25 A No.

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1 Q Did you ever discuss a company called BASF?

2 A No.

3 Q Do you think that your mother was exposed to
4 products made by BASF?

5 A I would have no way of knowing that.

6 Q Do you think she was exposed to products made
7 by Engelhard?

8 A I don't know that personally either.

9 Q In terms of your role as class representative,
10 what do you want out of the case?

11 A What we want from the case is for the Court to
12 recognize that there was fraud and deceit in
13 what was told to us about talc.

14 Q And what was told to you about talc?

15 A In this particular instance we were told
16 that -- that it was harmful to my mom and other
17 class members by way of their employment.

18 Q Your mother was told that talc was harmful?

19 A Based upon what I know of this case, and my
20 mother was the one who did the initial
21 conversations with the attorneys, but based
22 upon what I have been told, yes, I do believe
23 that.

24 Q That your mother was told that talc was
25 harmful?

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1 A I'm not saying that she was told that talc was
2 harmful, what I'm saying is with the defendants
3 that that matter, as far as talc being harmful,
4 that would have been discussed with her by the
5 attorneys.

6 Q Okay.

7 A And I was not privy to that conversation.

8 Q Okay. So let's leave your mother's discussions
9 with her attorneys aside. I'll come back to
10 that in a second.

11 A Okay.

12 Q Other than your mother's discussions with
13 attorneys, do you have any basis to believe as
14 to how your mother was harmed by talc? Other
15 than what your mother and the attorneys
16 discussed.

17 A Other than what was presented in the complaint,
18 then I have no personal knowledge.

19 Q And we're going to get to the complaint and
20 what personal knowledge you have of the
21 complaint in a second.

22 But in terms of your harms or your
23 mother's harms, you mentioned that she was
24 harmed because she was told that talc was
25 harmful. Is that what you said?

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1 A Yes. That's what I said.

2 Q Okay. And if she were told talc was harmful by
3 her attorney or somebody else, how, then, was
4 she harmed and why is it she should get money
5 in this lawsuit?

6 A She was harmed because she developed
7 mesothelioma, which you can only get by
8 asbestos exposure.

9 Q Do you think that this lawsuit, the Williams
10 lawsuit, the reason you're here, is a case to
11 compensate for her asbestos injuries?

12 A I don't think that I could answer that
13 question.

14 Q Do you think that the harm that you're seeking
15 money for is because of your mother's asbestos
16 injuries?

17 A Yes.

18 Q Are you seeking money for any other reason
19 other than the asbestos injuries?

20 MR. COREN: Objection to
21 form.

22 Q You can answer.

23 THE WITNESS: I can answer?

24 A Repeat the question.

25 Q Sure. Other than seeking money for asbestos

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1 injuries in this case, are you seeking money
2 for any other reason in this case?

3 A Because of fraudulent representation by the
4 company.

5 Q And what fraudulent representations are you
6 seeking compensation for?

7 A Because the company represented that there was
8 no asbestos in the talc.

9 Q What company represented that?

10 A At this point I guess it would be referred to
11 as BASF or Engelhard.

12 Q When did that representation occur?

13 A I don't have those dates.

14 Q To whom was that representation made?

15 A To -- to my mom and other plaintiffs.

16 Q When did -- excuse me.

17 Who made the representation to your
18 mother and other plaintiffs?

19 A I would not know that, because those were
20 conversations that my mother had with her
21 attorneys.

22 Q Did your mother -- withdrawn.

23 Other than the conversations with --
24 between your mother and her attorneys, do you
25 have any personal knowledge of representations

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1 being made to your mother about talc?

2 A I have no personal knowledge of that.

3 Q The only knowledge you have is from Mr. Bevan
4 regarding what was said or not said to your
5 mother, true?

6 A Correct.

7 Q So you're relying on Mr. Bevan as the source
8 for the facts in this lawsuit, fair?

9 A I'd say fair based upon the complaint filed,
10 yes.

11 Q Did -- in terms of the harms -- you mentioned
12 that you'd like to be compensated for the harms
13 caused by asbestos, true?

14 A The harms caused by asbestos and the
15 representation by the company.

16 Q So you would like to be compensated for the
17 harms caused by asbestos and by the
18 representations by the company, and these
19 representations were the -- are the
20 representations that you know through
21 Mr. Bevan, fair?

22 A Fair.

23 Q In terms of the harms, other than compensation
24 for asbestos and compensation for these
25 representations that Mr. Bevan knows about, are

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1 there any other harms that you're seeking
2 compensation for?

3 A Would you clarify that?

4 Q Sure. Other than the asbestos injury to your
5 mother and other than the fraud that Mr. Bevan
6 knows about --

7 A Right.

8 Q -- are you seeking compensation for any other
9 harm?

10 A I'm not certain of that. I'm not certain of
11 that question.

12 Q Okay. Fair enough.

13 A Okay.

14 Q Okay. So you're seeking compensation for the
15 asbestos injuries to your mother?

16 A Right.

17 Q True?

18 A Right.

19 Q You're seeking compensation for the allegedly
20 fraudulent statements that Mr. Bevan knows
21 about, true?

22 A True.

23 Q Are you seeking compensation for anything else?

24 A I don't know what anything else would be.

25 Q In this lawsuit, as we sit here today --

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1 A Okay.

2 Q -- you're going to be asking for money,
3 correct?

4 A Correct.

5 Q Okay. And you would like money for the
6 asbestos injuries, correct?

7 A Yes.

8 Q And you would like money for the false
9 statements known about by Mr. Bevan, correct?

10 A Yes.

11 Q Would you like money for anything else?

12 A I really --

13 MR. COREN: Objection to
14 form.

15 Go ahead.

16 THE WITNESS: Yeah. Okay.

17 Q Would you like money for anything else?

18 A I really would not know how to answer that
19 question. That's not clear to me.

20 Q Okay. Are there any other injuries as you sit
21 here today that you can identify for me, other
22 than the asbestos injury and the alleged injury
23 of fraud through Mr. Bevan, statements made to
24 Mr. Bevan?

25 A I think if there were any other injuries or

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1 anything else asked for that that would be
2 clarified by my attorneys. I'm not the legal
3 representative.

4 Q But you're a class representative.

5 A I'm a class representative.

6 Q So I'm just asking you as you sit here today --
7 withdrawn.

8 You prepared for this deposition,
9 correct?

10 A Correct.

11 Q Did you meet with your attorneys yesterday?

12 A Yes, I did.

13 Q Who was present?

14 A Myself and Attorney Coren.

15 Q Okay. Was Mr. Bevan present?

16 A No, he was not present during that time.

17 Q Okay. In preparation for your deposition
18 today, have you spoken to Mr. Bevan?

19 A I spoke to him in greeting him yesterday at the
20 office.

21 Q And did you speak to him regarding any of the
22 facts in this case in preparation for your
23 deposition?

24 A No, I did not.

25 Q By the way, do you have a fee agreement with

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1 Mr. Coren or Mr. Placitella's firm?

2 A I don't recall that. Our family is represented
3 by Tom Bevan and his associates, so I don't
4 recall that. I think that's taken care of in
5 our relationship with him.

6 Q That as a class representative you have a
7 relationship with Mr. Bevan?

8 A Right.

9 Q And you -- any relationship, then, with the
10 Williams lawyers would be through Mr. Bevan?

11 A It's through Mr. Bevan.

12 Q And you don't know any of the details of that?

13 A I'm not aware of the details of that.

14 Q Were you ever given a written fee agreement
15 outlining what the compensation for --

16 A I don't recall getting a fee agreement.

17 Q Well, what's your understanding of what the fee
18 agreement is in this case?

19 A I don't have a particular understanding of the
20 fee agreement in this case, all I know is that
21 our estate is represented by Tom Bevan.

22 Q You mentioned you had -- your family and the
23 estate has a relationship with Mr. Bevan.

24 A Yes.

25 Q What do you mean by that?

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1 A That he is the attorney that represents us in
2 the asbestos case and the defendants therein.

3 Q In any asbestos case?

4 A Yes.

5 Q Have you sought compensation for asbestos
6 injuries from companies other than BASF?

7 A Yes, we have.

8 Q How many cases?

9 A There's one case, multiple defendants.

10 Q Multiple defendants. How many defendants?

11 A I'm not sure. There are a number of.

12 Q Order of magnitude, three or three, four or
13 five, more than 10? More than 20?

14 A More than 20.

15 Q And have you -- more than 30?

16 A I'm not sure.

17 Q Does 98 sound right?

18 A I really don't know --

19 Q Okay.

20 A -- how many defendants there were.

21 Q Okay. Would you disagree with the number 98?

22 MR. COREN: Objection as to
23 form.

24 A Not being sure how many defendants there are, I
25 can't agree or disagree.

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1 Q Okay. And have you received compensation from
2 other defendants for asbestos-related injuries?

3 A Yes.

4 Q From how many defendants?

5 A I'm not sure how many defendants.

6 Q Order of magnitude, two or three or more than
7 20?

8 A More than 20.

9 Q More than 20?

10 A More than 20.

11 Q And have you received compensation in excess
12 of, say, \$250,000?

13 MR. COREN: Objection.

14 I'll instruct her not to answer that.

15 MR. ASSAF: Grounds?

16 Grounds?

17 MR. COREN: The grounds
18 are -- one, it's, as we have maintained to you,
19 it's totally irrelevant. And in the various
20 filings in front of --

21 MR. ASSAF: Just -- Mike,
22 is it attorney-client privilege or is it some
23 other ground? No speaking objections, please.

24 MR. COREN: You asked me
25 the grounds --

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1 MR. ASSAF: Grounds.

2 MR. COREN: -- and I gave
3 you the --

4 MR. ASSAF: Under the
5 federal rules --

6 MR. COREN: Now you don't
7 want me to give you the grounds.

8 MR. ASSAF: No, under the
9 federal rules you can instruct a witness not to
10 answer for either attorney-client privilege or
11 some other reason succinctly stated. If you're
12 going to make a speaking objection, I'm going
13 to ask that the witness be excused.

14 So are you basing it on privilege or some
15 other reason under the federal rules of
16 evidence?

17 MR. COREN: I'm basing it
18 on confidentiality and for the reasons that we
19 set forth in the various submissions to Judge
20 Dickson.

21 MR. ASSAF: So it's not a
22 privileged instruction, it's a confidentiality
23 instruction?

24 MR. COREN: That, as well
25 as relevance too, but yes.

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1 MR. ASSAF: You're
2 instructing a witness not to answer because of
3 relevance?

4 MR. COREN: It's the same
5 issues that we had in the answers to
6 interrogatories and it's the same issue that's
7 before Judge Dickson that's pending on the
8 issue of settlements. It's been very
9 extensively briefed.

10 As we said, you may know that there are
11 settlements, but as to nature and the amount of
12 settlements, no.

13 Q We'll get to the amounts later, because I
14 actually have some of the documents.

15 You have submitted documents to trusts,
16 correct?

17 A To the trust, from what I understand, yes.

18 Q Correct. And, to your knowledge, have they
19 been truthful applications? The information in
20 there has been truthful, correct?

21 A Truth -- excuse me. Truthful and to the best
22 of my knowledge, confidential.

23 Q Did you ever sign a confidentiality agreement?

24 A I signed confidentiality when I signed the
25 releases.

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1 Q You signed confidentiality with the trust?

2 A I can't say for sure whether or not it was with
3 the trust, but Attorney Bevan's office with
4 settlements provided me as fiduciary of the
5 estate releases to sign.

6 Q And are they releases vis-a-vis Mr. Bevan and
7 the estate?

8 A Yes.

9 Q Okay. And Mr. Bevan's your attorney, correct?

10 A Mr. Bevan is our attorney.

11 Q And so the confidentiality agreement between
12 you and Mr. Bevan and the estate, you could
13 change that if you wanted to, correct? You're
14 the client.

15 A I really -- I really can't say that.

16 Q Okay. So other than the confidentiality with
17 Mr. Bevan, are you aware of any other
18 confidentiality agreement prohibiting you from
19 discussing settlements?

20 A Not that I can personally recall.

21 Q Whose idea was it for you to become a class
22 representative in this case?

23 A I am a class representative in this case based
24 upon being fiduciary of my mother's estate.

25 Q But I'm saying how did you even find out about

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1 this case?

2 A Through our attorneys.

3 Q Through Mr. Bevan?

4 A Right.

5 Q This is the same Mr. Bevan who has knowledge of
6 any facts regarding talc and representations
7 made to your mother, correct?

8 MR. COREN: Objection to
9 form.

10 A Correct.

11 Q And the same Mr. Bevan who has this
12 confidentiality agreement with you, correct?

13 A Correct.

14 Q And he's the one who first told you about the
15 possibility of being a plaintiff in this
16 Williams case?

17 A Yes.

18 Q When was that?

19 A I don't have particular dates.

20 Q At the time Mr. Bevan spoke to you, did you
21 have any facts regarding Emtal, Engelhard,
22 BASF, or Cahill Gordon? Had you ever even
23 heard of them?

24 A I had not heard of them previous to talking to
25 him.

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1 Q In this case as a class representative, would
2 you like money from the defendants?

3 A Yes.

4 Q Other than money, do you want anything else?

5 A I would like it to be clarified for my mom and
6 other class members that this particular
7 company was not truthful in its representation
8 as to their product and the effect of their
9 product on my mother and other class members.

10 Q You said the company was not truthful as to its
11 product?

12 A As to the harm its product could do.

13 Q When you say the company was not truthful as to
14 the harm the product can do, your basis for
15 that is again Mr. Bevan, correct? You have no
16 independent personal knowledge?

17 A I have no independent personal knowledge, but
18 based upon the allegations contained in the
19 complaint, I'm privy by that.

20 Q Other than what's written in the complaint and
21 what Mr. Bevan has told you, you have no
22 independent personal knowledge of the company
23 doing anything wrong, correct?

24 A If you put it that way, I would say I do -- I
25 do not have any independent personal knowledge.

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1 Q And so in terms of the harms and letting people
2 know about the harms, is that your idea or is
3 that Mr. Bevan's idea?

4 MR. COREN: Objection. And
5 I'm going to instruct her not to extent -- not
6 to answer to the extent the answer relies upon
7 advice of counsel.

8 However, Ms. Holley, if you can answer
9 the question without incorporating or revealing
10 advice of counsel, please respond.

11 A I can't answer without revealing advice of
12 counsel.

13 Q Mr. Bevan gave you advice as to letting other
14 people know about the harms?

15 MR. COREN: Once again,
16 same instruction. To the extent your answer
17 relies upon advice of counsel, we instruct you
18 not to answer. If you can answer without
19 incorporating or revealing advice of counsel,
20 you can respond.

21 Q Can you answer?

22 A I cannot answer, because I believe that that's
23 attorney-client privilege.

24 Q Did you and Mr. Bevan -- withdrawn.

25 Did you and anybody discuss you receiving

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1 an incentive award or a bonus for being a class
2 representative?

3 A No.

4 Q Do you know -- withdrawn.

5 In terms of other class members, have you
6 spoken to any people you believe who are
7 members of the class?

8 A In a meeting at Attorney Bevan's office there
9 were several of us present. I don't remember
10 their names, but I think there were three or
11 four other representatives of the class at that
12 meeting.

13 Q And did they all have a prior relationship with
14 Mr. Bevan?

15 MR. COREN: Objection.

16 I instruct you to the answer -- to the
17 extent your answer relies on advice of counsel
18 you're not to answer, but if you have your own
19 personal basis or knowledge of that, then you
20 can respond.

21 MR. ASSAF: As to whether a
22 person is represented by an attorney and she
23 knows that? That's legal advice?

24 MR. COREN: It depends how
25 she learns it, Gene.

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1 MR. ASSAF: It's a fact.

2 Are you instructing her not to answer?

3 MR. COREN: No. I'm saying

4 if she has independent knowledge she could

5 answer. If she doesn't --

6 MR. ASSAF: It's a fact.

7 Whether somebody's represented or not is a fact

8 that you put even on a privilege log. It's not

9 revealing advice of counsel.

10 A Repeat the question.

11 Q Sure. Do you have -- do you know whether the
12 other people at this meeting with Mr. Bevan
13 also had prior relationships with him for other
14 asbestos cases?

15 A I would not have that information.

16 Q Do you know who they were?

17 A I don't recall who they were.

18 Q Well, were they Kimberlee Williams?

19 A I know there are other plaintiffs, but I don't
20 know them personally. They were probably
21 identified at that meeting, but I don't
22 remember their names.

23 Q How long did this meeting occur?

24 A How long ago --

25 Q Yeah.

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1 A -- or how long was the meeting?

2 Q How long ago.

3 A Several years.

4 Q Before the filing of the complaint?

5 A I believe the first meeting was before the
6 filing of the complaint, but I can't state
7 unequivocally.

8 Q Was Mr. Placitella or anybody from
9 Mr. Placitella's firm at that meeting?

10 A Yes.

11 Q Was Mr. Placitella there?

12 A I don't recall.

13 Q How long did the meeting take place? How long
14 did it go?

15 A About an hour or two.

16 Q Without revealing what was said, did
17 Mr. Placitella make a presentation at that
18 case?

19 A I don't know if it was him specifically, but
20 someone from the law firm did.

21 Q Made a presentation?

22 A Right.

23 Q Was it a PowerPoint presentation?

24 A No, it was not.

25 Q Did they show you documents?

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1 A I don't believe there were documents.

2 Q Was there anybody at the meeting who was not a
3 class representative or an attorney
4 representing the class?

5 A I really couldn't say.

6 Q Did you take notes of the meeting?

7 A I took a few personal notes.

8 Q And do you have those notes?

9 A No, I do not.

10 Q Where are they?

11 A At home.

12 MR. ASSAF: Have they been
13 logged?

14 MR. COREN: I don't know.

15 MR. ASSAF: Pardon me?

16 MR. COREN: I don't know.

17 I can't tell you off the top of my head.

18 A This was several years ago.

19 Q Have you given them to your attorneys?

20 A This was several years ago. As I said, I took
21 a couple of personal notes.

22 Q Okay.

23 A That was it.

24 Q Okay. And with respect to at least these
25 personal notes, have you given them to your

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1 attorneys?

2 A They were personal notes for me. There was --
3 there was nothing -- to the best of my
4 knowledge, there was nothing in my notes to
5 give to the attorney.

6 Q Have your attorneys ever asked you for notes
7 relating in any way to this case?

8 A No, they have not.

9 Q Really? They haven't asked you for any
10 documents you have that relate to this
11 complaint or the allegations in this case?

12 A I'm not certain I understand your question.

13 Q Okay. Have your attorneys come to you and
14 said, "Ms. Holley, we'd like you to search your
15 notes and files and computer to see whether
16 there are any documents that relate to this
17 case"? Have they asked you that in words or in
18 substance?

19 A I can't say for sure.

20 Q Well, you've been around the litigation system
21 for years in these asbestos cases, right?

22 A Correct.

23 Q And you generally follow your attorneys'
24 advice, correct?

25 A Correct.

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1 Q And if your attorneys had asked you for
2 documents, you would have told them about the
3 documents, correct?

4 A Personally, I can't think of any documents that
5 they would have asked me for. The documents
6 that I received were from the attorneys.

7 Q Well, let's start with the notes that you took
8 during the Bevan class rep meeting with
9 Mr. Placitella. It's clear you haven't given
10 those to the attorneys.

11 A Clear.

12 Q Okay.

13 A True.

14 Q And they haven't asked you for them?

15 A No.

16 Q So are there -- do you have a computer or a
17 laptop?

18 A Yes.

19 Q And do you have emails on that?

20 A Yes.

21 Q Do you have emails regarding your
22 communications with Mr. Bevan on that?

23 A No.

24 Q Do you have any communications on that
25 regarding this case at all?

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1 A No.

2 Q Do you have any communications with other class
3 representatives?

4 A No.

5 Q Has anybody ever asked you to look at your
6 computer for that information?

7 A No.

8 Q Do you get copies of the -- withdrawn.

9 Without revealing what's said, are you
10 kept up to date on what's happening in this
11 case?

12 A Yes.

13 Q Do you know whether there were any settlement
14 discussions in this case?

15 A Yes.

16 Q When were you told about settlement
17 discussions?

18 A I just know there were settlement discussions.
19 I have no information on those particular
20 discussions.

21 Q Well, you were told about the economics, the
22 terms, the money that was being offered,
23 weren't you?

24 A No.

25 Q As a class representative, you weren't told how

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1 much money was being offered to settle the
2 case?

3 A To settle this particular case?

4 Q Yeah.

5 A No.

6 Q Interesting. As a class representative, do you
7 think that you're entitled to know whether your
8 attorneys are negotiating to settle the case
9 for some sum of money?

10 MR. COREN: Objection as to
11 form.

12 A I have always been advised of relevant
13 settlements in regard to the defendants' end,
14 my mom's asbestos case.

15 Q Mr. Bevan always tells you that there's a
16 defendant who's willing to pay \$10,000, for
17 example, correct?

18 A Correct.

19 Q And then you decide --

20 A I do receive that information.

21 Q And then you decide whether to take that money,
22 correct?

23 A Yes.

24 Q In this case do you expect the same thing to
25 happen?

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1 A If there is a reasonable settlement offered, I
2 do expect that.

3 Q You expect to be informed of it, correct?

4 A I expect to be informed.

5 Q And whose decision would it be to accept the
6 settlement offer for the class?

7 MR. COREN: Objection as to
8 form.

9 A My attorneys.

10 Q You mean Mr. Placitella and Mr. Coren would
11 decide on how much money the class should get?

12 A They would advise me.

13 Q What about Mr. Bevan?

14 A I'm -- I'm not sure in this matter. They're
15 representing the class action, so I'm not
16 certain how that's done. I can imagine that
17 Attorney Bevan would be privy to it, but I
18 don't know that for certain.

19 Q But as we sit here today, you've never been
20 informed that there was an opportunity to
21 settle a case for some sum of money that you
22 would receive, correct?

23 A In some of the others.

24 MR. COREN: Objection.

25 Q Withdrawn.

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1 MR. COREN: Objection.

2 A Okay.

3 Q Leave aside the individual asbestos cases with
4 Mr. Bevan, okay?

5 A Okay. Okay.

6 Q With respect to this case, the Williams case,
7 as we sit here today, you've never been
8 informed that there was a possibility to settle
9 a case -- settle these cases at some sum of
10 money and that you will receive some specific
11 sum, correct?

12 A I've only been advised that there have been
13 some settlement discussions. No money was
14 discussed.

15 Q It was never --

16 A With me.

17 Q Okay. Well, you're the class representative.

18 A Right. Right. Right.

19 Q Other than you, is there anybody else --

20 A Right.

21 Q -- you think would be privy to these
22 discussions?

23 A I wouldn't know that.

24 Q At the end of the day, do you think that
25 Mr. Placitella and Mr. Bevan get to decide how

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1 much money the class should get?

2 MR. COREN: Objection as to
3 form.

4 A Repeat that.

5 Q Sure. In this class action, do you think the
6 class representatives decide how much money the
7 case should be settled for, if it's settled, or
8 the attorneys, like Mr. Placitella, Mr. Coren,
9 and Mr. Bevan?

10 MR. COREN: Objection as to
11 form.

12 A I believe that our attorneys would advise us on
13 that.

14 Q Advise you on who makes the decision?

15 A No. Advise on any settlements that have been
16 offered and they feel as though they are
17 settlements that we should take into
18 consideration.

19 Q And, for example, if somebody had offered
20 you -- withdrawn.

21 If a defendant or a group of defendants
22 in this case had offered you, say, \$50,000 to
23 settle the case, would you at least want to
24 know about that?

25 MR. COREN: Objection as to

1 form.

2 A I consider that to be supposition. As I stated
3 before, I understand in this particular matter
4 that there had been some settlement
5 discussions, but that was with -- that was the
6 attorneys, the plaintiffs, and the defendants.
7 As a class action member, I was not privy to
8 that.

9 Q And as a class representative you were not
10 privy to those discussions, correct?

11 A No, not to those particular discussions.

12 Q And so -- withdrawn.

13 As we sit here today, do you have any
14 knowledge of whether you had an ability last
15 summer to get a specific sum of money to settle
16 the case?

17 A I have no knowledge of that.

18 MR. COREN: Form objection.
19 I'm sorry, I'm a little slow on the draw.

20 Q In meeting with Mr. Coren yesterday, was there
21 anybody else present in the room?

22 A No.

23 Q And did he show you any documents?

24 A I had already received documents.

25 Q From whom?

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1 A From Mr. Coren.

2 Q Did you review those documents?

3 A Yes, I did.

4 Q Did they refresh your memory and help you
5 remember things?

6 A Basically they helped in just the review of the
7 case itself.

8 Q Were they documents relating to your mother's
9 case?

10 A Yes. Relating to this particular case.

11 Q Were they documents relating to the Williams
12 class action?

13 A Yes.

14 Q Could you estimate how many documents you got?
15 Was it five, 10, 15, 20?

16 A I know how many documents I received.

17 Q Oh. How many?

18 A It was -- there were three documents.

19 Q And those documents helped you both prepare for
20 today and refresh your memories as to the
21 events, correct?

22 A Yes.

23 Q What three documents refreshed your memories as
24 to the events?

25 A The complaint, amended complaint, and the

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1 judge's -- the judge's opinion.

2 Q So the pleadings with the allegations in this
3 case and the Court of Appeals' decisions --

4 A Correct.

5 Q -- are what you reviewed to prepare you for
6 today's deposition?

7 A That along with the meeting with Mr. Coren.

8 Q And were any other documents shown to you?

9 MR. COREN: Asked and
10 answered.

11 Q Other than those three.

12 A Not at this time. I had received documents
13 before.

14 Q In preparation for your deposition or just as a
15 class representative?

16 A These -- the documents I reviewed were for
17 preparation of this deposition.

18 Q The three documents you reviewed?

19 A Those three documents.

20 Q Okay. Did you review any other documents in
21 preparation for your deposition?

22 A No, I did not.

23 Q Okay. In terms of your role as class
24 representative, do you believe that other class
25 members are interested in receiving money for

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1 alleged injuries?

2 MR. COREN: Objection as to
3 form.

4 A Do I believe that other --

5 Q Class members --

6 A -- class members --

7 Q -- want money.

8 A I'd say yes.

9 Q Okay. In terms of, say, things that aren't
10 money, all right, instead of money, whatever
11 else, say an apology, do you think other class
12 members would prefer money or an apology?

13 MR. COREN: Objection as to
14 form.

15 A I couldn't say what they would prefer.

16 Q What about you?

17 A I think I've already stated it, what I -- what
18 my expectation is.

19 Q Money?

20 A Monetary compensation and admission of
21 fraudulent representation.

22 Q Admission of fraudulent representation.

23 The admission of fraudulent
24 representation, we talked about that earlier,
25 that's what --

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1 A Right.

2 Q -- Mr. Bevan knows about, not you, right?

3 A I know about it through Mr. Bevan.

4 Q You know -- anything you know, you know about
5 it through Mr. Bevan, fair?

6 A Mr. Bevan and Mr. Coren.

7 Q Anything you know about the alleged fraudulent
8 misrepresentation you know either through
9 Mr. Bevan or Mr. Coren?

10 A Through the attorneys, yes.

11 Q All right. Do you think that members of the
12 class should get money if they were not harmed?

13 MR. COREN: Form objection.

14 You can respond.

15 THE WITNESS: Did you say I
16 could respond?

17 MR. COREN: Yes. Yes.

18 A Actually, I don't think I would be able to
19 answer that question. Because you're talking
20 about expectations of other people, right?

21 Q Well, I'm talking about your role as class
22 representative in approving or I guess hearing
23 about a settlement from your attorneys.

24 Do you expect that class members who were
25 not injured should get money?

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1 MR. COREN: Objection to
2 form.

3 A And I don't know exactly what you mean by
4 "class members who were not injured." Why
5 would they be class members?

6 Q Okay. Good question.

7 So if somebody, let's say, actually
8 didn't have exposure to Emtal talc and yet
9 filed a complaint against Emtal and had it
10 dismissed, do you think they should get money?

11 MR. COREN: Objection as to
12 form.

13 A And had it dismissed?

14 Q Yeah. Even though they had never worked with
15 Emtal talc.

16 A Why would they be a party to the class if they
17 had never worked for -- if they had never been
18 exposed to or harmed?

19 Q Well, your -- you mentioned earlier you had
20 filed a complaint against dozens of companies,
21 correct?

22 A Other companies, correct.

23 Q And do you know whether all of them actually
24 had asbestos that your mother was exposed to?

25 A No, I would not. I would not know that.

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1 Q And if you found out later that one of the
2 companies was listed as a defendant but
3 actually didn't have any product at the place
4 where your mother worked, would you want money
5 from them?

6 A Wouldn't that be a legal issue?

7 Q Well, I think it's actually just a matter of
8 ethics, isn't it?

9 MR. COREN: Objection as to
10 form.

11 A I don't think it's anything that I can answer.
12 If you repeat the question --

13 Q Sure.

14 A -- and I get a better understanding, maybe I
15 can answer you.

16 Q If you found out that there's a lawsuit against
17 the company and the company actually didn't
18 have any products with asbestos that your
19 mother was exposed to, they were named by
20 mistake, do you think that company still owes
21 you or your estate money?

22 A Where the company's still in the lawsuit or
23 were they dismissed?

24 Q Let's say they're still in the lawsuit.

25 A I still -- I don't think it's anything that I

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1 can answer.

2 Q Well, let's say they were dismissed.

3 A Not based upon the way that you presented it.

4 Q Do you think that any company that's sued in an
5 asbestos case needs to pay money to the
6 plaintiff?

7 A Isn't that speculation?

8 Q You can answer the question.

9 A I don't see how I could answer that question.
10 I don't see how -- why I should answer that
11 question, because you're talking about other
12 people and I think you're bringing up legal
13 issues. And I'm not -- I'm not qualified to
14 answer that.

15 Q If you found out in this case --

16 A Okay.

17 Q -- that your mother was not ever exposed to
18 Emtal talc, do you think you should still get
19 money in this case?

20 A I don't think we'll find that out.

21 Q Why --

22 A She was exposed to Emtal talc.

23 Q And you know that through Mr. Bevan?

24 A Yes.

25 Q Well, if Mr. Bevan's wrong for some reason and

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1 I am able to show you Mr. Bevan is wrong, will
2 you still want money in this case?

3 A I think that's speculative. I don't see how I
4 could answer a question based upon
5 probabilities. Now, if you ask me a question
6 based upon something in this particular case,
7 yes, but I'm not understanding that question as
8 my being able to give you a substantive answer.
9 If you repeat it or if you phrase it a
10 different way, maybe, but based upon the way
11 that you put the question, I don't see how I
12 can answer that.

13 Q You've been involved in numerous lawsuits
14 against asbestos companies, true?

15 A Yes. Since the death of my mom.

16 Q Okay.

17 A Uh-huh.

18 Q Dozens of them, correct?

19 A Correct.

20 Q Okay. And based upon your experience in dozens
21 of asbestos cases, do you think that you should
22 receive money even if you later learn that the
23 company that you sued did nothing wrong?

24 A I can't --

25 MR. COREN: Form objection.

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1 A I cannot answer that question.

2 Q You don't understand that concept?

3 A It's not a matter of not understanding the
4 concept, it's a matter of what are you really
5 asking me to answer?

6 Q I'm asking if you found out a company did
7 nothing wrong and you sued them any way, would
8 you let them out of the lawsuit?

9 A I guess what stops me in this question, when
10 you start off with "if." So to me that's
11 speculative. I don't know how to answer that.

12 Q Well, the "if" has to do with proof that the
13 company did not have any asbestos that your
14 mother was exposed to. That's the "if."

15 A You said if there were other companies that
16 were claimed to have asbestos --

17 Q Withdrawn.

18 A -- were not -- yeah --

19 Q Withdrawn.

20 A -- because I'm not understanding --

21 Q Okay.

22 A -- that question.

23 Q Fair enough.

24 A Okay.

25 Q Withdrawn.

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1 A Okay.

2 Q Do you know whether you've ever dismissed a
3 company from any of your dozens of lawsuits
4 without taking any money?

5 MR. COREN: Objection as to
6 form.

7 A I can't recall. I really -- I can't recall.
8 There are a number of defendants, so I
9 really -- I cannot recall.

10 Q Can you think of any reason why you would allow
11 a company out of a lawsuit without paying
12 money?

13 A I would -- I would actually expect my attorney
14 to handle that.

15 Q Here's what I'm trying to get at --

16 A Please.

17 Q -- Ms. Holley. And it's not a legal question,
18 it's actually just a basic fairness question.

19 A Okay.

20 Q If you found out you sued a company that wasn't
21 responsible for any harm to you, would you
22 still want them to pay you money? Can you
23 answer that question "yes" or "no"?

24 A I would rely on advice of counsel.

25 Q Okay. Without -- you can't answer the question

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1 of whether you expect money from companies even
2 though they did nothing wrong without talking
3 to your attorneys? You need to talk to your
4 attorneys about that question?

5 A I don't need to talk to my attorneys about that
6 question, but in my mind, in my way of
7 thinking, the way you are phrasing the
8 question, it doesn't seem to me that it's a
9 question I can answer. Do you want to repeat
10 it again?

11 Q Sure.

12 A Okay. Please do.

13 Q Do you think it's fair for people to get money
14 if they were not harmed?

15 A No, I don't think that's fair.

16 Q Okay. And if when a person -- withdrawn.

17 When a person files a lawsuit against a
18 company that actually never harmed the person,
19 do you think that company should pay the person
20 money?

21 A I'm still not understanding the basis of your
22 question.

23 Q The basis is that you've sued somebody who did
24 nothing wrong and you want them to pay you
25 money.

1 A No.

2 Q Do you think that's fair?

3 A No, it would not be fair.

4 Q Is that something you would want to do?

5 A In terms of what would I want to do?

6 Q Take money from a company that actually didn't
7 cause you any harm.

8 A First of all, I would not expect my attorneys
9 to file against a company or persons that did
10 not do me harm. That's my first inclination.

11 Q Okay. So as far as you know, Mr. Bevan hasn't
12 filed against companies that he knew were
13 uninvolved with your mother, correct?

14 A To the best of my knowledge.

15 Q Okay. Let's get out the complaint, D Ex. 1.

16 (Defendants' Exhibit 1 was marked.)

17 Q I'm showing you what's been marked D Ex. 1.
18 This is the second amended complaint, and I
19 think you mentioned earlier that you had
20 reviewed this as one of the three documents you
21 reviewed in preparation for your deposition.

22 Do you recognize this document?

23 A Yes.

24 Q By the way, did you review this document before
25 it was initially filed?

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1 A Yes, I would have.

2 Q And how would you have gotten that document?

3 A Through Mr. Bevan.

4 Q By email?

5 A Hard copy.

6 Q Do you still have it?

7 A Probably.

8 Q You have files regarding your --

9 A Right.

10 Q -- Bevan cases at --

11 A Right.

12 Q -- home, don't you?

13 A Right.

14 Q And when I asked you earlier about whether you
15 looked for documents -- withdrawn.

16 When I asked you earlier about whether
17 your attorneys asked you to look for documents,
18 did your attorneys ask you to look for
19 documents in your Bevan files at home?

20 A No, they did not.

21 Q Okay.

22 MR. ASSAF: Interesting
23 approach.

24 Q Okay. Paragraph 25, could you turn to that,
25 please?

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1 A Uh-huh. I'm not there yet.

2 Q Okay.

3 A Okay.

4 Q Paragraph 25. I'd like to talk to you about
5 the first sentence. "On or about November 14,
6 2000, Plaintiff Holley's decedent, Kathryn
7 Darnell, while alive, commenced an asbestos
8 injury lawsuit in the Court of Common Pleas,
9 Cuyahoga County, against BASF's predecessor,
10 Eastern Magnesia, naming same as a defendant in
11 accordance with the accepted asbestos practice
12 in that area in view of settlement programs
13 that potentially responsible product
14 manufacturers or suppliers were negotiating or
15 had developed."

16 Do you see that?

17 A Yes.

18 Q What is the "accepted asbestos practice in that
19 area in view of settlement programs that
20 potentially responsible product manufacturers
21 or suppliers were negotiating or had
22 developed"?

23 MR. COREN: Ms. Holley, I
24 instruct you not to answer to the extent your
25 answer relies upon advice of counsel. If you

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1 could answer the question without incorporating
2 or revealing advice of counsel, please answer.

3 Q Okay. Ms. Holley, going forward, any question
4 I ask you that you have to reveal advice of
5 counsel you should pause and say I would need
6 to -- advice of counsel, otherwise Mr. Coren
7 will continue to interrupt and try to prompt
8 you not to answer questions like that --

9 MR. COREN: Objection.

10 Q -- okay?

11 MR. COREN: I'm stating
12 an --

13 Q So --

14 MR. COREN: -- objection
15 for the record and I'll continue to state an
16 objection for the record.

17 Q Ms. Holley, what does that sentence mean to
18 you?

19 MR. COREN: Once again my
20 same instruction.

21 A What it means to me is that on or about that
22 date that a lawsuit was filed against BASF's
23 predecessor, Eastern Magnesia.

24 Q We're actually focused on the second part, I
25 apologize.

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1 A Okay.

2 Q The second part, what are -- what were --
3 what's the accepted asbestos practice in
4 Cuyahoga County of a settlement program where
5 potentially responsible product manufacturers
6 were negotiating or had developed? What does
7 that mean?

8 A I have no knowledge of what that means.

9 Q Well, you reviewed it in the complaint under
10 the paragraph that talks about your claims,
11 correct?

12 A Okay.

13 MR. COREN: And, once
14 again, my same instruction applies.

15 Q You just mentioned you reviewed the complaint
16 before filing, correct?

17 A Yes.

18 Q And this is a paragraph about your underlying
19 lawsuit and Mr. Bevan and your mother's
20 lawsuits, correct?

21 A Correct.

22 Q So you would have read this carefully, correct,
23 and wanted to understand it?

24 A Correct. I do understand it.

25 Q Okay. And so could you -- since you do

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1 understand paragraph 25, could you explain to
2 me what the accepted asbestos practice was
3 that's referenced in paragraph 25?

4 MR. COREN: And once again
5 I instruct you not to answer to the extent your
6 answer relies upon advice of counsel. If you
7 can answer it without incorporating or
8 revealing advice of counsel, please respond.

9 A The particular -- the particular words that you
10 are pointing out in referring to "Eastern
11 Magnesia, naming same as a defendant in
12 accordance with the accepted asbestos practice
13 in that area," I believe that my attorney would
14 have made that decision. I personally would
15 not know what the accepted practice is in our
16 area.

17 Q So that first sentence in paragraph 25
18 regarding the accepted asbestos practice for
19 settlement programs that were either being
20 negotiated or developed, Mr. Bevan would be the
21 person who has knowledge of that?

22 A Well, the paragraph starts off: On or about
23 November 14, 2000, my mom, Kathryn Darnell,
24 commenced an asbestos injury lawsuit. She was
25 the one who dealt with her attorney, Tom Bevan,

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1 regarding this particular lawsuit. I am not
2 privy to that information.

3 Q Okay.

4 A I was not at that meeting.

5 Q You don't have any facts about the first
6 sentence of paragraph 25 and the person who
7 does have the facts would be Mr. Bevan?

8 A The person who does have the facts would be
9 Mr. Bevan, as indicated on November 14, that
10 Kathryn Darnell, while alive, commenced. So
11 that would have been between my mother and
12 Attorney Bevan. And I was not a party to any
13 conferences or meetings to develop this
14 particular lawsuit.

15 Q And so if I wanted to know what's meant by the
16 accepted asbestos practice in Cuyahoga County
17 for settlement program, I would be best to talk
18 to Mr. Bevan, fair?

19 A Or review the accepted practices.

20 Q But in terms of this complaint, you have, and
21 as -- withdrawn.

22 As a class representative, in paragraph
23 25 can you refer me to anybody whom I could
24 talk to to get answers about paragraph 25?

25 A Okay. The lawsuit was brought in the Common

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1 Pleas Court of Cuyahoga County and it says in
2 accordance with the accepted asbestos
3 practices. So I don't understand how I would
4 even be able to answer that question, really.

5 Q And let's step back.

6 A Okay.

7 Q When you reviewed the complaint, did you have
8 any questions about what that meant?

9 A This particular complaint was done by Attorney
10 Bevan with meetings with my mother.

11 Q Withdrawn.

12 With respect to reviewing the Williams
13 complaint, the second complaint that's in
14 front --

15 A Right.

16 Q -- of you.

17 A Right.

18 Q When you read it for the first time, did you
19 have any questions about what that meant?

20 A No. No, I did not.

21 Q Did you review the complaint for accuracy?

22 A Yes, however, I don't see anything that I would
23 question in this particular paragraph.

24 Q Well, you just -- withdrawn.

25 You don't know what -- the accepted

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1 asbestos practices for settlements in Cuyahoga
2 County, do you?

3 A No, I don't know the accepted in Cuyahoga
4 County.

5 Q And if I wanted to find out from anybody
6 involved in this case, do you think Mr. Bevan
7 might be the person to talk to? Or somebody
8 else?

9 A You're talking about the complaint filed in
10 2000?

11 Q No. I'm talking about that -- who -- this --
12 withdrawn.

13 Paragraph 25 --

14 A Okay.

15 Q -- in your complaint against my client says
16 that there's an accepted asbestos practice in
17 Cuyahoga County for settlement programs. You
18 say you don't know anything about that,
19 correct?

20 A About what, the accepted practices?

21 Q Yes.

22 A To the best of my knowledge and understanding
23 based upon your question, I don't know why I
24 personally would know about accepted practices
25 in Cuyahoga County.

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1 Q And as a class representative, could you point
2 me to the person who would know anything about
3 those practices as referenced in the complaint?

4 MR. COREN: Objection to
5 the form.

6 Q Could I talk to Mr. Bevan? Would he be a
7 better person to talk to?

8 A Yes. Because I consider accepted practices to
9 be an issue that the attorneys would know
10 about, not an issue that I would know about
11 personally.

12 Q So it's something --

13 A In spite of reviewing -- I review the complaint
14 based upon -- based upon facts that I know of.
15 The legal issues I rely on the attorneys. I
16 consider that to be a legal issue when you say
17 "accepted practices." How would I know about
18 accepted practices as a layperson?

19 Q That would be Mr. Bevan?

20 A Right.

21 Q Okay. And turn to the next sentence. It says,
22 "reasonably relying upon and acting upon the
23 misrepresentations and material omissions of
24 Defendants regarding Engelhard's talc products
25 and the absence of any evidence indicating

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1 Engelhard's talc contained asbestos fibers that
2 were made to her attorney and representative,
3 Thomas Bevan, as set forth more particularly
4 herein."

5 Do you see that?

6 A Yes.

7 Q I think you mentioned earlier that the alleged
8 representations were made to or known about by
9 Mr. Bevan, not you, correct?

10 A That would be correct.

11 Q So if I want to ask somebody about that
12 sentence, I would have to ask Mr. Bevan,
13 correct?

14 A Yes. It says, "that were made to her attorney
15 and representative, Thomas Bevan."

16 Q And then going to the next sentence, it says,
17 "Plaintiff voluntarily dismissed her lawsuit
18 against Eastern Magnesia as part of a nominal
19 settlement with a group of talc supplier
20 defendants without receiving full, fair and
21 adequate compensation for her asbestos injury
22 claims against BASF's predecessors."

23 Do you know anything about that sentence
24 and the facts underlying it?

25 A That my mom accepted settlement based upon the

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1 facts that her attorneys had at that time.

2 Q And you know about that through Mr. Bevan,
3 correct?

4 A Yes, I do.

5 Q Other than what you know from Mr. Bevan, you
6 don't have any personal knowledge?

7 A I have no personal knowledge.

8 Q Turning to the next page, still paragraph 25.
9 "Plaintiff Holley did not know and learn that
10 her decedent was a victim of Defendants'
11 Fraudulent Asbestos Defense Scheme until late
12 2010/early 2011, when she was informed of the
13 same by her attorney, Tom Bevan."

14 Do you see that?

15 A Yes.

16 Q Do you have any papers, documents, emails, that
17 could put a more specific date on when
18 Mr. Bevan informed you of this fraudulent
19 asbestos defense scheme?

20 A To the best of my recollection, it was late
21 2010, early 2011 when I met with -- when I met
22 at Attorney Bevan's office.

23 Q Okay. And was that the same meeting
24 Mr. Placitella was at?

25 A Yes.

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1 Q So the first time you heard of this alleged
2 scheme and filing a class action complaint was
3 a meeting with Mr. Bevan and Mr. Placitella
4 that lasted about two hours at Mr. Bevan's
5 office?

6 A One or two hours. And let me -- let me
7 clarify. It was -- Mr. Coren was there.

8 Q And Mr. Coren too?

9 A Uh-huh. Yeah.

10 Q And after that the complaint was filed?

11 A Sometime after that. I don't remember exactly
12 when, but sometime after that meeting the
13 complaint was filed.

14 Q Did you have any other meetings between that
15 first meeting and the time the complaint was
16 filed?

17 A I can't recall for sure. I know that there
18 were at least one or two more meetings, but I
19 can't say specifically if they were before or
20 after the complaint was filed.

21 Q And at any of those meetings were there people
22 besides your attorneys or other class
23 representatives?

24 A At the first meeting for sure.

25 Q The other class reps were at the meeting?

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1 A Yes.

2 Q Were there people who weren't class
3 representatives at the meeting?

4 A I would not know that.

5 Q Okay. After -- withdrawn.

6 After that first meeting, were there
7 other meetings where people attended who were
8 not class reps or attorneys?

9 A Not that I can recall. I won't say
10 unequivocally, but not that I can recall.

11 Q And at this first meeting, did Mr. Placitella
12 in words or in substance, or any of his
13 colleagues, tell you to make sure you
14 maintained all of your documents relating to
15 the underlying Bevan cases against Emtal?

16 A No, I was not specifically told that.

17 Q Were you ever told that?

18 A Not specifically, no.

19 Q Turning to the next sentence of paragraph 25.
20 "Had Plaintiff's counsel and Plaintiff known
21 about the existence of spoliation described
22 more particularly herein and/or the existence
23 of evidence that BASF's talc and talc products
24 contained asbestos, the settlement demand would
25 have been higher and/or the Plaintiff would

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1 have taken her case to trial."

2 Do you see that?

3 A Yes.

4 Q Do you have any knowledge of the facts
5 surrounding the settlement demand and whether
6 you would have taken the case to trial or is
7 that a Mr. Bevan topic as well?

8 A I have no personal knowledge of that, no.

9 Q And it says here plaintiffs would have taken
10 the case to trial.

11 Do you see that?

12 A Yes.

13 Q Out of the 98 or so cases -- withdrawn.

14 Out of the 98 or so defendants that
15 you've sued, have any of those cases gone to
16 trial?

17 A We did not go --

18 MR. COREN: Form objection.

19 You can answer it.

20 THE WITNESS: Okay.

21 A We did not go to trial.

22 Q In any of them?

23 A We did not go to trial.

24 Q But Mr. Bevan would know whether this was the
25 case that you were going to take to trial?

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1 He's the person I should ask?

2 A He would know that. I specifically personally
3 recall that BFGoodrich defendant settled within
4 a week before the trial date.

5 Q And then the next sentence says, "Plaintiff is
6 willing and offers to return the portion of the
7 settlement contributed by BASF, or such amount
8 the Court deems fair and just, in order to be
9 restored to the status quo ante the settlement
10 with BASF."

11 So the plaintiff, that's you, correct?

12 A Correct.

13 Q And that means you're willing to return the
14 money you've already gotten from BASF or
15 Engelhard?

16 A If I'm not mistaken in the way I read this
17 paragraph, the money would have been returned
18 if there had not been a problem with BASF.

19 Q Do you know how much money you or the estate
20 received from BASF or Engelhard?

21 A I don't know. I don't remember the amount. I
22 don't remember.

23 Q Okay. In settling these cases -- by the way,
24 you've dealt with various settlements of people
25 who had asbestos, correct?

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1 A Correct.

2 Q And have you dealt with defendants who didn't
3 have asbestos?

4 A I can't recall.

5 Q By the way, with respect to -- withdrawn.

6 You've been acting as a representative
7 for your mother's estate since 2000 in these
8 asbestos cases?

9 A No. No. 2000 was prior to her death.

10 Q Okay.

11 A Okay. She passed June 7, 2001.

12 Q Correct.

13 A Okay.

14 Q So since that time you've been responsible for
15 handling the asbestos cases?

16 A Since that time -- in 2001 we did open up an
17 estate with the local Probate Court.

18 Q And you mentioned before that you've received
19 hard copies of documents from Mr. Bevan?

20 A Correct.

21 Q And you say you haven't received any emails
22 from Mr. Bevan?

23 A No. We usually deal with the documents
24 themselves via hard copy.

25 Q Okay. So Mr. -- if Mr. Bevan has emails to

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1 you --

2 A Mr. Bevan doesn't have emails to me.

3 Q Okay.

4 A Not specifically, no.

5 Q Generally?

6 A No, not generally. No.

7 Q All right.

8 A No. We either met or I received copies from
9 his office.

10 Q And then in terms of these various documents
11 for your underlying asbestos cases since 2001,
12 have you ever discarded or destroyed any of
13 them?

14 A No.

15 Q So you still have them all?

16 A Yes.

17 Q Could you describe for me what those files look
18 like? Is it 6 inches, is it a couple boxes?

19 A It's a lot of paper. It's quite a bit, but I
20 could not give you a general idea because there
21 were a number of documents having been received
22 at various times. I did not receive all of the
23 documents at one time. Okay.

24 Q But you have some sort of file system?

25 A Yes.

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1 Q Okay.

2 A From receiving documents from the office, yes.

3 Q And then these notes we referenced before of
4 your meetings with other class representatives,
5 would those notes be in the same file system?

6 A And I'm not even sure of that. I mean, they
7 were just some cursory notes that I made, yeah.
8 Not putting down facts or anything, but
9 basically the date of the meeting, who -- maybe
10 who was there and how long it took, but not any
11 extensive notes, no.

12 Q Well, whether they're extensive or not, these
13 notes, are they in the same file system as your
14 Bevan litigation files?

15 A Pretty much, yes.

16 Q And in order to find out whether the notes are
17 extensive or not and whether they have actual
18 facts that might be relevant to the case, we
19 wouldn't know actually until an attorney
20 reviewed them, correct?

21 A Correct.

22 Q And Mr. Placitella and Mr. Coren haven't asked
23 to review them, correct?

24 A No. No.

25 Q Could I ask you just -- I know you'll do this

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1 any way, but please don't discard them. Keep
2 hold of them, okay?

3 A Well, I keep all the --

4 Q Because I think -- I think --

5 A I keep the material I receive.

6 Q Good. I think they're going to ask you now to
7 review them.

8 A Okay.

9 Q Okay. I might be wrong on that, but I think
10 I'm right.

11 Okay. Let's go to paragraph 228 of the
12 complaint. I'm going to ask you about 228 to
13 230.

14 A Okay.

15 Q So if you take a minute and review those.

16 A Okay. 228 to 230?

17 Q Yes, ma'am.

18 Okay.

19 A Okay.

20 Q All right. So in paragraph 228, and then I'm
21 going to continue on to 230, there's the phrase
22 in the first sentence, "When negotiating these
23 aggregate settlements and deciding to recommend
24 and obtain its clients' consent and
25 authorization to participate in them, the Bevan

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1 Law Firm reasonably relied upon Cahill Gordon's
2 and BASF's (or its predecessors')
3 representations" and it continues.

4 Do you see that?

5 A Yes.

6 Q Based upon your experience with Mr. Bevan and
7 over the last 15 years of asbestos litigation
8 with 98 or so defendants, do you have any
9 understanding of what the phrase "aggregate
10 settlement" means?

11 MR. COREN: And,

12 Mrs. Holley, once again I need to instruct
13 you --

14 MR. ASSAF: Oh, please.

15 Michael.

16 MR. COREN: Stop it.

17 MR. ASSAF: No. This is
18 not -- there's no advice to go here. I'm
19 asking her if she knows what it means. It's a
20 yes or no question. There's no legal advice
21 that can conceivably impact this answer.

22 MR. COREN: Well, you and I
23 seem to have a disagreement, Gene, on putting
24 my objection on the record.

25 I instruct you not to answer to the

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1 extent your answer relies upon advice of
2 counsel. If you can answer the question
3 without incorporating or revealing advice of
4 counsel, please respond to Mr. Assaf's
5 question.

6 Q And to be clear, Ms. Holley, I'm asking you yes
7 or no do you know what that means.

8 MR. ASSAF: And, Mr. Coren,
9 I'd ask you to stop coaching and suggesting
10 answers to the witness.

11 MR. COREN: I'm not
12 coaching. I'm putting an objection on the
13 record.

14 Q Do you know what the term "aggregate
15 settlement" means?

16 A I believe I do.

17 Q Okay. What is it?

18 A That it would be the collective group of
19 settlements.

20 Q So with other plaintiffs?

21 A With other plaintiffs.

22 Q And have you participated in aggregate
23 settlements?

24 A Participated in what way?

25 Q Have you settled as part of an aggregate

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1 settlement?

2 A Yes.

3 Q And did you -- withdrawn.

4 And has Mr. Bevan represented you in
5 these aggregate settlements?

6 A Yes.

7 Q Now, if you turn to paragraph 230, at the very
8 bottom of the page, it says, "Correspondingly."
9 Do you see it at the bottom right?

10 A Uh-huh.

11 Q "Correspondingly, the Bevan Law Firm asbestos
12 injury clients, including Plaintiff Pease,
13 Plaintiff Holley's decedent, Ms. Darnell, and
14 Plaintiff Ware, as well as others similarly
15 situated to them, would not have given their
16 consent or authorization to participate in an
17 aggregate settlement with BASF."

18 Do you see that?

19 A Yes.

20 Q Do you have any knowledge of whether or not you
21 would have given authorization to participate
22 in a settlement with BASF?

23 A I have no knowledge of that.

24 Q If I wanted -- the person who would have
25 knowledge of that would be Mr. Bevan, correct?

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1 A Yes, it would have been Mr. Bevan.

2 Q All right. Could you turn to page -- to
3 paragraph 289.

4 A Okay.

5 Q It says, "Plaintiffs' claims are typical of the
6 claims of other Class Members'."

7 Do you see that?

8 A Yes.

9 Q Do you know what that means?

10 A Yes.

11 Q What does that mean to you?

12 A It says because we were similarly affected by
13 Defendants' spoliation of asbestos evidence.

14 Q And do you have any facts to that or is that a
15 Mr. Bevan issue?

16 A That's a Mr. Bevan issue.

17 Q Okay. Could you turn to paragraph 316.

18 A I'm there.

19 Q Okay. It says, "As a further proximate" cause
20 "of the above described deliberate gathering
21 and withholding, destruction and/or concealment
22 of documents and evidence relating to Class
23 Members' underlying asbestos claims, and/or the
24 false and misleading statements thereafter that
25 no documents or evidence existed, Plaintiffs

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1 and other Class Members may or will incur, or
2 have already incurred pecuniary losses and
3 damages, including but not limited to the loss
4 of their underlying asbestos injury claim, the
5 expenses and costs of proceeding without this
6 evidence incurred in the effort to replace,
7 locate, or identify evidence, and the cost of
8 prosecuting this case to prove the fraudulent
9 concealment and spoliation of evidence."

10 Do you see that?

11 A Yes.

12 Q Okay. First of all, the pecuniary damages,
13 what pecuniary damages, what money damages have
14 you suffered?

15 A What money damages?

16 Q Yeah.

17 A Are you asking are there money damages that I
18 have suffered personally?

19 Q Yes.

20 A I'd have to give thought to that question. I'm
21 not certain what's involved in money damages
22 for me. Are you talking about time? Are you
23 talking about any kind of material loss that I
24 have had? I'm not sure what that means.

25 Q What about in terms of your mother's estate,

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1 what money damages has that incurred?

2 A What do you mean?

3 Q Well, it says that class members, plaintiffs --

4 A Right.

5 Q -- have -- may or will incur or may have
6 already incurred pecuniary or monetary losses
7 and damages, including but not limited to the
8 loss of their underlying asbestos injury
9 claims, and then it goes on.

10 A Uh-huh.

11 Q So let's start there. With respect to the loss
12 of the underlying asbestos injury claim, do you
13 think that that's a loss that you or your
14 mother's estate has incurred?

15 A Yes.

16 Q Okay. And how much?

17 A How much?

18 Q Is that loss?

19 MR. COREN: Objection as to
20 form.

21 A As in a monetary value?

22 Q Yes.

23 A I would not be able to answer that.

24 Q Well, you now have testified you've been
25 involved with Mr. Bevan for 15 years settling

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1 cases against asbestos defendants, including,
2 as we're going to see, people who actually
3 created asbestos piping where your mother
4 worked.

5 A Right.

6 Q And you settled those cases?

7 A Right.

8 Q So you have some understanding of what cases
9 settle for, correct?

10 A I have some understanding of what cases settled
11 for, but I do not know how the figures were
12 derived.

13 Q Well, as we sit here today, do you have any
14 amount of money that you could identify for me
15 as your loss for having your mother's claim
16 dismissed or settled against BASF?

17 MR. COREN: Objection as to
18 form.

19 You can respond.

20 A I have -- I have no idea. That has not been
21 discussed.

22 Q Well, do you know that you or your mother's
23 estate have settled with other talc
24 manufacturers?

25 A I know that they have settled with other

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1 defendants, whether or not they were talc
2 manufacturers, I'm not certain. I particularly
3 remember defendants like BFGoodrich, Cooper,
4 that sort of thing.

5 Q And you said you understood the term "aggregate
6 settlements" --

7 A Right.

8 Q -- right?

9 A Right.

10 Q That's where maybe a bunch of defendants --

11 A Right.

12 Q -- were settling --

13 A Right.

14 Q -- with a bunch of plaintiffs --

15 A Right.

16 Q -- correct?

17 A Right. Right.

18 Q And would you agree with me, would it be fair
19 if I can show you that your mother or your
20 mother's estate settled with talc manufacturers
21 who admitted they had asbestos in the talc,
22 that would be instructive for you in
23 understanding what the damages are in having
24 settled with Engelhard, correct?

25 A I think it's instructive to a certain extent.

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1 Q Because if you have two talc manufacturers and
2 you're settling with them, you would think,
3 based upon your experience with Mr. Bevan, that
4 the talc manufacturer who has asbestos in the
5 talc would pay more than the talc manufacturer
6 who doesn't have asbestos in the talc, fair?

7 MR. COREN: Form objection.
8 You can respond.

9 A Fair to a certain extent, because in this
10 particular matter there was fraud involved.

11 Q Based on what Mr. Bevan told you?

12 A Based upon what -- yes. Based upon what
13 Mr. Bevan said and the basis -- the very basis
14 of this lawsuit.

15 Q Okay. But in terms of the underlying cases
16 back in 2000 and 2001, 2002, you understood
17 that those cases were being settled against
18 defendants who both had asbestos in their
19 product and didn't have asbestos in their
20 product, correct?

21 A My understanding is based upon those that had
22 asbestos. I cannot recall those who did not.
23 If there were those who did not.

24 Q Well, you settled -- your mother's estate
25 settled with Engelhard, and one of the reasons

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1 Mr. Bevan told you there was fraud is because
2 she heard that Engelhard didn't have asbestos
3 in the talc, right?

4 A No.

5 Q No.

6 A Well, based upon my understanding of this
7 particular case, the information given to them
8 at that time was that Engelhard did not have
9 asbestos in the talc.

10 Q And at the time -- withdrawn.

11 Based upon your litigation experience
12 with Mr. Bevan, you have come to learn that you
13 have settled with defendants who actually did
14 have asbestos in the talc, right?

15 A Yes.

16 Q And you would agree with me that's going to be
17 relevant information, to see how much a
18 defendant owed somebody who was around talc,
19 correct?

20 A Correct only if -- only if they admitted that
21 they had asbestos in the talc. I don't think
22 it -- I don't think it's fair to lump that in
23 with someone who said that they did not have
24 asbestos in the talc but in fact did. I think
25 that's a -- there's the difference there.

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1 Q Okay. And we'll get to that. I'm going to
2 show you --

3 A Right.

4 Q -- a listing of defendants.

5 A Okay.

6 Q Some with asbestos, some without.

7 A All right. All right.

8 Q All right. Let's see.

9 MR. ASSAF: Can I have the
10 interrogatory?

11 (Defendants' Exhibit 2 was marked.)

12 A I think they're right in front of you. This is
13 D Ex. 2. "Plaintiff --"

14 MR. COREN: Gene, when you
15 get to a good spot --

16 MR. ASSAF: Yeah, I think
17 this will take five minutes or so and then --

18 MR. COREN: Yeah.

19 MR. ASSAF: -- we'll take a
20 break.

21 Q Marilyn Holley's -- withdrawn.

22 D Ex. 2 is entitled: Plaintiff Marilyn
23 Holley's answers to BASF's first set of
24 interrogatories.

25 Do you see these?

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1 A Yes.

2 Q Okay. When did you first see these?

3 A I first saw these after they were prepared for
4 me, but I can't give you an exact time when
5 they were -- when it was done. Let's see.

6 Based upon the certificate of service, it
7 looks like it was the end of last year. Okay.

8 Q And did you review these interrogatories before
9 they were finalized? Or did you review them
10 after they were already filed?

11 A No. I reviewed them after they were finalized.
12 We discussed them prior to submission.

13 Q And did you ever sign what's called a
14 verification?

15 A Yes.

16 MR. ASSAF: I'm going to
17 ask counsel for a copy of that verification.

18 MR. COREN: Yes.

19 MR. ASSAF: If you could
20 email it to me during the dep, that would be
21 useful. Okay?

22 MR. GEYERMAN: Same goes for
23 the verifications for the other defendants.

24 Q So you remember signing the verification?

25 A I believe so. I won't say unequivocally, but I

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1 believe so.

2 Q And because you've signed verifications for
3 other interrogatory responses in other
4 litigations, correct?

5 A Correct.

6 Q And so you know what a verification is?

7 A Yes.

8 Q Let's start at the back, actually, 11 and 12.

9 In 11 the second paragraph reads,
10 "Subject to and without waiving the foregoing
11 Objections, Plaintiff possesses no personal
12 information responsive to this request."

13 This is a question --

14 A Do we have -- oh, I wasn't at the
15 interrogatories. I'm sorry.

16 Q Sorry. Withdrawn.

17 Let's start again.

18 A Okay. Interrogatory number 11?

19 Q 11, yep. Describe in detail the process behind
20 the Decedent's decision to settle or dismiss
21 Engelhard in the Underlying Actions, including
22 the Persons involved, the information reviewed,
23 and the basis for the decisions.

24 Do you see that?

25 A Uh-huh.

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1 Q And then the response, the second paragraph,
2 says, "Plaintiff possesses no personal
3 information responsive to this request."

4 Do you see that?

5 A Yes.

6 Q And I think you and I talked about this in the
7 beginning of the deposition, the information --
8 personal -- withdrawn.

9 You have no personal information
10 regarding why the underlying case was settled,
11 what happened in the underlying case, what was
12 said regarding Engelhard in the underlying
13 case, correct?

14 A I have no personal information of that, that's
15 true.

16 Q And the person who does have that personal
17 information --

18 A Would be --

19 Q -- is -- would be?

20 A Attorney Bevan.

21 Q Attorney Bevan. Okay.

22 Interrogatory 12, I think the same thing.
23 "Describe all efforts made by Decedent and her
24 counsel in the Underlying Action to develop and
25 prosecute claims under Engelhard."

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1 And, again, just to be clear, the person
2 who would have the factual information to
3 address why the case was settled, what was said
4 by Engelhard would be?

5 A Attorney Bevan.

6 Q And on that note, we'll take a break.

7 THE VIDEOGRAPHER: Off the record.

8 The time is 11:36.

9 (Recess taken.)

10 THE VIDEOGRAPHER: Back on the
11 record. The time is 11:48.

12 (Defendants' Exhibit 3 was marked.)

13 BY MR. ASSAF:

14 Q Okay. In front of you, Ms. Holley, is
15 exhibit -- Defendants' Exhibit 3, the response
16 to the Cahill Gordon interrogatories.

17 Do you see these?

18 A Yes.

19 Q Did you also review these at some point?

20 A Yes.

21 Q Okay.

22 A I'm certain that I did. Uh-huh.

23 Q Did you sign a verification?

24 A I believe I did, yes.

25 Q Okay.

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1 MR. ASSAF: Counsel, may we
2 also have a copy of that verification?

3 MR. PLACITELLA: Sure.

4 MS. FIELDS: We join in that
5 request.

6 MR. ASSAF: I don't think
7 it was attached.

8 Q All right. And in terms of filling out the
9 disclosed -- the interrogatories, fair to say
10 that you also -- you relied on the facts that
11 you knew from Mr. Bevan? Withdrawn.

12 In terms of responding to the
13 interrogatories, I know you said that you had
14 no personal knowledge of many of the facts in
15 there, correct?

16 A Yes.

17 Q And with respect to the facts you did know, is
18 it fair to say that many of those facts came
19 from Mr. Bevan?

20 A Many, but I believe in this interrogatories we
21 talked about residences.

22 Q Yes.

23 A Okay. So that would have been personal
24 knowledge.

25 Q So other things like residences, I guess it's

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1 your brother and Linda Neal whom also you
2 identified as potential witnesses?

3 A Linda Neal, not necessarily my brother.

4 Q Okay. All right.

5 A Uh-uh.

6 Q But other than that purely personal
7 information --

8 A Yes.

9 Q -- the facts of the underlying case and the
10 facts of the alleged fraud, all that's
11 Mr. Bevan?

12 A Yes.

13 Q "Go talk to Mr. Bevan"?

14 A Yes.

15 (Defendants' Exhibit 4 was marked.)

16 Q May I have put in front of the witness
17 Defendants' Exhibit 4, please.

18 Defendants' Exhibit 4 is entitled "Class
19 Plaintiffs Rule 26(a) Disclosures."

20 Have you ever seen this before?

21 A I can't recall for sure. This document goes
22 back to October 2015.

23 Q Okay.

24 A And I don't remember -- I can't say yea or nay.

25 Q Okay. It's something filed by your --

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1 plaintiffs' --

2 A Right.

3 Q -- lawyers --

4 A Right.

5 Q -- in the Williams case?

6 A Right.

7 Q And I would like to turn your attention to
8 paragraph 2.

9 A Paragraph 2. Okay.

10 Q Yep.

11 I'm sorry. Page 2. Page 2.

12 A Page 2.

13 Q Where it says "Thomas Bevan."

14 A Uh-huh.

15 Q Do you see that?

16 A Yes.

17 Q And I'm going to read this under "Subject."

18 A Okay.

19 Q "Mr. Bevan is an attorney in the Akron, Ohio
20 area who has represented the five Ohio-venued
21 Named Class Representative Plaintiffs. He has
22 knowledge of their asbestos claims, the
23 representations that he and his firm were given
24 by Defendant BASF Catalysts, Cahill, Gordon and
25 the individual attorneys affiliated with these

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1 Defendants, and the actions taken as a result
2 of Defendants' misrepresentations, half-truth
3 statements, material omissions concerning Emtal
4 talc and the evidence of asbestos in Emtal
5 talc. He has knowledge about the involuntary
6 dismissal of his clients' claims due to the
7 defendants' misrepresentations, half-truth
8 statements and material omissions concerning
9 Emtal talc and the evidence of asbestos in
10 Emtal talc."

11 Do you see that?

12 A Yes.

13 Q Do you think that's true?

14 A Yes.

15 Q Yes. And do you have -- have you ever told

16 Mr. Bevan that he cannot provide facts in this

17 case?

18 MR. COREN: Objection as to

19 form.

20 Also to the extent that you're relying

21 upon advice of counsel, I'm going to instruct

22 you not to answer. However, to the extent that

23 you have personal knowledge, you may --

24 without -- you can answer without revealing

25 advice of counsel, please respond.

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1 A I have no personal knowledge.

2 Q Okay. Let me try it this way: You've known
3 Mr. Bevan for 15 years?

4 A Yes.

5 Q He has a relationship with you and your
6 mother's estate and helping you in all of these
7 asbestos cases, right?

8 A Correct.

9 Q You trust him, correct?

10 A Yes.

11 Q You think he's a good guy, good lawyer?

12 A Yes.

13 Q Okay. If he has information that would help
14 out your case here, you wouldn't have any
15 objection to him giving it to you to help you
16 out, correct?

17 MR. COREN: I'm going to
18 instruct you not to answer the question. It
19 deals with a matter of privilege. We are
20 asserting at this time the privilege. Until
21 the Court takes appropriate action under law,
22 I'm instructing the witness not to answer.

23 MR. ASSAF: On whether she
24 has an objection to him providing us
25 information?

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1 MR. COREN: Yes, because
2 it's a matter of privilege and we're
3 instructing her not to answer. It's a very
4 complicated issue. It's an issue that's
5 pending before Magistrate Judge Dickson.

6 Q So let's try it this way: We've identified --
7 you've identified Mr. Bevan as a guy who
8 understands the facts of the underlying action,
9 the alleged representations, and other issues,
10 fair?

11 A True.

12 Q As we sit here today, as a class representative
13 and somebody who's known Mr. Bevan for 15
14 years, can you think of any reason why you as a
15 class rep wouldn't want him to provide those
16 facts to the Court?

17 MR. COREN: Once again,
18 it's a matter of privilege. I'm --

19 MR. ASSAF: It's not
20 privileged, Michael.

21 MR. COREN: Excuse me. It
22 is. It's the assertion of a privilege which we
23 are asserting.

24 MR. ASSAF: What legal
25 advice or legal communication is at issue,

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1 Mr. Coren?

2 MR. COREN: Many. Many.

3 MR. ASSAF: What identified

4 by that question?

5 Court reporter, could you read back the

6 question, please?

7 MR. COREN: You know, I'm

8 not going to respond. I've asserted my --

9 MR. ASSAF: Please read

10 back the question.

11 (Requested portion of the record was read.)

12 MR. COREN: Okay. And,

13 once again, the issue is a matter of assertion

14 of privilege, which is a complicated one in New

15 Jersey. It's not an automatic one in New

16 Jersey. We have asserted the privilege. It's

17 a matter under submission to judge --

18 Magistrate Judge Dickson. I'm instructing the

19 client not to answer.

20 Q Have you had -- yes or no: Have you had
21 discussions with Mr. Bevan regarding the facts
22 in this case, the Williams case? Just answer
23 it "yes" or "no" without revealing what was
24 said.

25 A Yes.

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1 Q Okay. Could you answer yes or no whether
2 you've had discussions with Mr. Bevan as to
3 whether he would be willing to testify in this
4 case? Don't say what he said, just have you
5 had those discussions?

6 A I have not had those discussions with him.

7 Q Okay. Do you have any written agreement with
8 Mr. Bevan prohibiting him from testifying in
9 this case?

10 A No.

11 Q We talked about the arrangements when we
12 started, by the way, and it was your
13 recollection you did not have a written fee
14 arrangement with Mr. Placitella's firm?

15 A I'm not going to say that I don't have one, I
16 just don't recall that particular document.

17 Q Would this be in your files that the
18 plaintiffs' counsel haven't reviewed yet?

19 A Either in my files or Mr. Bevan's.

20 Q And do you have a separate agreement with
21 Mr. Bevan in writing for compensation in this
22 case, the Williams case?

23 A I'm not sure. Really I'm not sure.

24 Q Would that be in your files as well?

25 A If it's -- if I have it, if I was given that,

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1 yes, it would be.

2 Q Do you have any idea of how Mr. Placitella's
3 going to be compensated in this case as the
4 class representative?

5 A No, I don't. Not personally, no.

6 Q So he could get 10 percent, 30 percent, 50
7 percent, you wouldn't know?

8 A I'm not aware. I'm not aware. I don't know.

9 Q That was never discussed with you?

10 A I don't know.

11 Q Okay. Now if you take in front of you D Ex. --

12 MR. ASSAF: Can you give
13 the witness D Ex. 5 through D Ex. 12?

14 (Defendants' Exhibit 5 was marked.)

15 (Defendants' Exhibit 6 was marked.)

16 (Defendants' Exhibit 7 was marked.)

17 (Defendants' Exhibit 8 was marked.)

18 (Defendants' Exhibit 9 was marked.)

19 (Defendants' Exhibit 10 was marked.)

20 (Defendants' Exhibit 11 was marked.)

21 (Defendants' Exhibit 12 was marked.)

22 Q We're going to try to get through these in
23 fairly short order.

24 May I help you?

25 A I just want to make certain that I have 12.

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1 Q Oh, I think --

2 A Okay.

3 Q Yeah, I think they're all here.

4 A Okay. Okay.

5 Q Here they are. 9, 10, 11, 12.

6 A Okay.

7 Q And I'm going to try to do these in order,
8 Ms. Holley --

9 A Okay.

10 Q -- okay?

11 A All right.

12 Q All right. First of all, D Ex. 5 is a November
13 14, 2000 filing of a complaint by Ms. Darnell
14 against who I count to be 98 defendants.

15 Do you recognize this document?

16 A Yes.

17 Q And these are the 95 defendants from whom
18 you've been pursuing compensation over the last
19 15 years?

20 A To the best of my knowledge, yes.

21 Q And some have paid and some haven't?

22 A Yes.

23 Q In addition to this lawsuit, were there any
24 other lawsuits filed against any other
25 defendant that you can think of?

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1 A When you say "in addition to this lawsuit,"
2 were you referring to --

3 Q In addition to the lawsuit against 98 asbestos
4 defendants --

5 A Oh, I see.

6 Q -- did you file any other asbestos case?

7 A No, not -- not except the one that we're
8 presently talking about.

9 Q Okay. So that's November 14, 2000, okay?

10 A Uh-huh.

11 Q Then we're going to go to the very next page --
12 the very next document, D Ex. 6. It is a
13 letter entitled -- or dated February 15, 2001
14 from Mr. Bevan to Sam Martillotta.

15 Do you see this document?

16 A Yes.

17 Q And if you turn to the second page of D Ex. 6,
18 there's a reference to Ms. Darnell. Do you see
19 this? Do you see that?

20 A Yes.

21 Q The document says, "I have enclosed the above
22 captioned Master Consolidated Complaints. As I
23 indicated to you previously, most of these
24 Plaintiffs did not work in facilities where
25 they would have been exposed to talc."

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1 Do you see that?

2 A Yes.

3 Q Okay. "The following Plaintiffs did work in
4 facilities where they were exposed to talc."

5 And then he lists --

6 A Yes.

7 Q -- 14 --

8 A Yes.

9 Q -- plaintiffs. Do you see that?

10 A Yes.

11 Q And do you see that they have different
12 employers? Firestone, Goodyear, General Tire?

13 A Yes.

14 Q And do you see where they have different years
15 in which they were working at these employers?

16 A Yes.

17 Q And that they have different diagnoses?

18 A Yes.

19 Q Do you think those -- withdrawn.

20 Based upon your 15 years of dealing with
21 asbestos litigation with Mr. Bevan, do you
22 understand that the differences in exposure and
23 diseases matter in terms of compensation?

24 A Yes.

25 Q What's your understanding of the reason for

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1 that?

2 A The severity of the illnesses. Basically
3 mesothelioma, which my mother had which we know
4 is a lung disease only contracted by exposure
5 to asbestos.

6 Q So mesothelioma should be the disease for which
7 the greatest compensation is allowed, as
8 opposed to asbestosis?

9 A To the best of my knowledge and belief, that is
10 true.

11 Q So the complaint is November of 2010, and in
12 roughly three months later, there's a letter
13 from Mr. Bevan to Mr. Martillotta, whom I'll
14 represent to you was defense counsel for talc
15 defendants group.

16 A Okay.

17 Q Okay. Regarding these 14 cases.

18 And at the end, Mr. Bevan says -- the
19 very last paragraph, I'm also enclosing -- "I
20 have also enclosed diagnosing medical records
21 for each of these cases. Please let me know if
22 the talc defendants would like to resolve these
23 cases along with the plaintiffs from the
24 Breckenridge complaint. Obviously, we would
25 also dismiss the defendants from other cases on

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1 these complaints as well."

2 Do you see that?

3 A Dismiss the talc defendants.

4 Q Yes.

5 A Uh-huh.

6 Q Okay. So Mr. Bevan's asking Mr. Martillotta
7 whether we could resolve all of these cases
8 three months after the complaint's filed,
9 right?

10 A According to the record, yes.

11 Q Okay. Now let's go to D Ex. 7, which is the
12 very next document. And it is in fact a
13 dismissal by Mr. Bevan of your mother's lawsuit
14 against a number of defendants.

15 Do you see that?

16 A Yes.

17 Q And included in these defendants are companies
18 like the Asbestos Corporation. Do you see
19 that?

20 A Yes.

21 Q And Bell Asbestos Mines.

22 A Uh-huh.

23 Q And Federal Mogul.

24 A Uh-huh.

25 Q Do you see that?

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1 A Yes.

2 Q And Georgia-Pacific. Do you see that?

3 A Yes.

4 Q And R.T. Vanderbilt and Company. Do you see
5 that?

6 A R.T. Vanderbilt.

7 Q Yeah, down towards the end.

8 A Yes.

9 Q And if you go back up to the E's, Eastern
10 Magnesia Talc Company, do you see that?

11 A Yes.

12 Q So in May of 2001, all of the claims against
13 those defendants are dismissed by your mother,
14 do you see that?

15 A Yes.

16 Q Okay. Then a few weeks later -- I'd like to
17 turn your attention to D Ex. 8.

18 A Okay.

19 Q D Ex. 8 is a document dated May 25, 2001 from
20 Mr. Martillotta to Mr. Bevan.

21 A Yes.

22 Q And it's entitled "Settlement with 7 Talc
23 Defendants."

24 Do you see that?

25 A Yes.

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1 Q By the way, have you seen this document before?

2 A I can't say that I have. I may have, but there
3 have been so many documents. I cannot identify
4 them individually.

5 Q Okay. Let's see if I can refresh your
6 recollection on this.

7 A Okay.

8 Q Thank you for forwarding to me the release.
9 Please revise the name of Harwick Chemical
10 Corporation to read 'Harwick Chemical Corp. now
11 known as Harwick Standard Distribution
12 Corporation'. With that change, the talc
13 defendants agree to the language of the Release
14 and urge you to obtain them for the Grant
15 Breckenridge plaintiffs with whom we are
16 settling for a total of \$14,000, and the
17 fourteen plaintiffs from the other cases,
18 specifically including Kathryn Darnell.

19 Do you see that?

20 A Yes.

21 Q Tom, as soon as you have the executed Releases,
22 please forward them to me and I will forward to
23 you the drafts.

24 A Uh-huh.

25 Q In the meantime, prepare and serve on the CLAD

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1 the dismissal of the seven talc defendants with
2 whom you are settling in each of these cases.

3 Do you see that?

4 A Yes.

5 Q And then if you turn to the second -- or I
6 guess it's page 3 under "Bevan 14 Plaintiffs."

7 Do you see that?

8 A Yes.

9 Q And it says \$19,000 and Kathryn Darnell.

10 So do you see that?

11 A Yes.

12 Q All right. Does that refresh your recollection
13 that all seven talc defendants were settling
14 for a total of \$14,000?

15 A No, it does not. It does not refresh my
16 recollection. And, actually, this is dated May
17 25, 2001. It was literally only two weeks
18 before my mom passed away.

19 Q In terms of understanding the facts of this
20 settlement with seven talc defendants for
21 \$14,000, would Mr. Bevan be the person that you
22 would encourage me to talk to?

23 A Yes. He would definitely have the information
24 on this. I did not. I was not a party to
25 this.

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1 Q Okay. Then if you turn to D Ex 9. It's dated
2 May 16, 2001.

3 A Yes.

4 Q So now I'm showing you this because it's a
5 voluntary dismissal of defendants Georgia Talc,
6 Harwick Chemical, Emtal, R.T. Vanderbilt,
7 Johnson & Johnson, and Southern Talc Companies,
8 which seems to be, by my count, seven talc
9 companies.

10 A Okay.

11 Q Okay. Now, remember in the beginning of the
12 deposition I asked you whether talc companies
13 who have asbestos in the talc were paying money
14 different from talc companies that didn't have
15 asbestos in the talc?

16 A Yes, I recall that.

17 Q And you said you would expect the talc
18 companies with asbestos to actually pay more,
19 fair?

20 A Fair.

21 Q Now, here we have seven talc defendants
22 dismissing the case against your mother and
23 let's assume it's for \$14,000, per Mr. Bevan's
24 letter, okay?

25 A Okay.

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1 Q All right. So did you know that R.T.
2 Vanderbilt in fact had asbestos in its talc?

3 A No, I did not know that. Personally, no.

4 Q Okay. Well, can you dispute that Mr. Bevan
5 knew that?

6 MR. COREN: Objection as to
7 form.

8 A I wouldn't be able to dispute that. That's
9 based upon his knowledge and belief and it's
10 nothing that I discussed with him.

11 Q Okay.

12 A Because this, as I say, this was prior to my
13 mom's passing. And so this particular
14 defendant -- then she would have had the
15 relationship with Mr. Bevan.

16 Q Well, this is actually -- this is August 16,
17 2001.

18 A Okay.

19 Q This is the dismissal of all seven talc
20 defendants.

21 A That was the dismissal --

22 Q Yep.

23 A -- of all seven and it was -- I have it at
24 home. I don't remember -- let me see -- the
25 date of my becoming --

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1 Q Okay.

2 A -- executrix of the estate.

3 Q Okay. But as we sit here today, do you know
4 whether Southern Talc had asbestos in its talc?

5 A I have no idea.

6 Q And could you dispute that Mr. Bevan in fact
7 knew that Southern Talc had asbestos in the
8 talc?

9 A I would not --

10 MR. COREN: Objection.

11 A -- be able to dispute that.

12 Q Could you turn to D Ex. 10?

13 A Okay.

14 Q January 7, 2002 from Mr. Bevan to Sam
15 Martillotta.

16 A Right.

17 Q And dated January 7, 2002.

18 A Uh-huh.

19 Q Entitled "Talc Settlement."

20 A Right.

21 Q "Dear Sam:

22 I have enclosed executed release for the
23 following clients."

24 And then on the next page it says, "The
25 following clients were previously paid."

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1 "We have not filed claim for the
2 following individuals."

3 We are waiting releases from the
4 following clients.

5 "Per your release, I have enclosed death
6 certificates for the following clients."

7 And then on page 3 it says, "According to
8 our records, we have previously settled and
9 dismissed, but not yet been paid for the
10 following clients." Do you see where it says
11 Kathryn Darnell?

12 A Yes, which includes my mom, yes.

13 Q Which includes your mom.

14 A Uh-huh.

15 Q And it says for the talc defendants that she
16 was paid \$2,000. Do you see that?

17 A I see that.

18 Q And that \$2,000 included money from talc
19 defendants who had asbestos in the talc,
20 correct?

21 MR. COREN: Objection as to
22 form.

23 A Does it say that?

24 Q I'm asking if you know.

25 A I don't know.

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1 Q Mr. Bevan would know, correct?

2 A Okay. Right.

3 Q And would you be surprised, based on what you
4 know of Mr. Bevan and the allegations in this
5 case, if Mr. Bevan recommended a settlement
6 from talc defendants who had asbestos in the
7 talc for a total of \$2,000? Would that
8 surprise you?

9 MR. COREN: Objection as to
10 form.

11 A Based upon the way you put your question, I
12 don't know why I would be surprised or not
13 surprised, because we're talking about
14 settlement issues. Okay.

15 Q So as we sit here today, you can't think of any
16 reason you would object to settling with a talc
17 defendant who had asbestos in the talc for
18 \$2,000?

19 A I can think --

20 MR. COREN: Objection as to
21 form.

22 A -- of no reason for me to object.

23 Q You can think of no reason you would object to
24 a settlement of \$2,000 from a talc defendant
25 with asbestos?

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1 A No, not with -- understanding the underlying
2 issues.

3 Q Could you turn to D Ex. 11, the very next
4 document. This is January 10, 2002.

5 It says: Enclosed is a settlement draft
6 from the Mansour Trust Account payable to Bevan
7 & Associates on behalf of the Breckenridge
8 Plaintiffs and 14 additional Plaintiffs listed
9 below, in the amount of \$33,000.

10 It says: Specifically, the settlement is
11 with Defendants Emtal, Georgia Talc -- put a --
12 just remember Georgia Talc.

13 A Right.

14 Q Harwick Chemical, Johnson & Johnson, R.T.
15 Vanderbilt -- let's remember R.T. Vanderbilt
16 too -- Southern Talc -- remember them --
17 St. Lawrence Liquidating Company, and Trustee
18 for International Talc Companies.

19 And then it goes through the claims of
20 the Breckenridge complaint.

21 And then the next page, on page 2, says,
22 "In addition, the settlement is with the
23 following Plaintiffs (along with their spouses
24 and/or estates, where applicable) who have
25 filed actions separately in the Cuyahoga County

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1 Court of Common Pleas." And you see Kathryn
2 Darnell listed?

3 A I see it.

4 Q Correct?

5 A Uh-huh.

6 Q Now, we're going to come back to page 2 in a
7 second, but I want to show you -- if you could
8 keep D Ex. 11 in front of you.

9 A Yes.

10 Q And then I'm going to show you something filed
11 by Mr. Bevan regarding the Southern Talc
12 company --

13 A Okay.

14 Q -- and whether it had asbestos in the talc,
15 okay?

16 A Oh, okay.

17 Q So, again, remember, to set this up: Settling
18 with seven defendants, seven talc defendants,
19 and we're trying to figure out whether they had
20 asbestos in the talc or didn't have asbestos in
21 the talc, okay?

22 So now if you turn to D Ex. 12, this is
23 entitled "Plaintiffs' Responses to Motions for
24 Summary Judgment Filed on Behalf of the
25 BFGoodrich Company." And it's filed by

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1 Mr. Bevan.

2 A Uh-huh.

3 Q Okay. Now, first of all, it says, if you turn
4 to page 2 --

5 A Okay.

6 Q -- "The BFGoodrich plant contained many miles
7 of asbestos insulated steam pipes, asbestos
8 insulated tanks, boilers, and asbestos
9 insulated machinery."

10 A Where is that?

11 Q On page 2. Do you see that right there?

12 A Okay.

13 Q "In the late 1980s, BFGoodrich engaged in a
14 major asbestos abatement project in its Akron
15 plant. One job involved the removal of an
16 astounding 22 miles of asbestos pipe
17 insulation."

18 Do you see that?

19 A Yes.

20 Q And your mom had worked at BFGoodrich --

21 A Yes.

22 Q -- correct?

23 A Yes.

24 Q And then on the next page Mr. Bevan talks about
25 "Between 1950 and 1977, BFGoodrich purchased

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1 millions of pounds of raw asbestos fiber."
2 During that -- "During said time, BFGoodrich
3 purchased over seven million pounds of raw
4 asbestos fiber from Johns Manville and over
5 seven million pounds of raw asbestos from The
6 C.P. Hall Company."

7 Do you see that?

8 A Yes.

9 Q And it says, "Talc/soapstone was commonly
10 contaminated with asbestos as was evidenced by
11 BFGoodrich's only laboratory analyses."

12 Do you see that?

13 A Where is that?

14 Q That's right there.

15 A Okay.

16 Q Okay.

17 A Okay.

18 MR. ASSAF: By the way,
19 counsel, we would very much like, if Mr. Bevan
20 has them, the analyses done by BFGoodrich's own
21 laboratory analyses on the talc that he
22 references in these papers.

23 Q Okay. Then I'm going to ask you to flip to
24 page 14.

25 A Of this same document?

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1 Q Of Mr. Bevan's document.

2 A Okay. Okay.

3 Q Okay. And may I just point you to this?

4 A Uh-huh.

5 Q Right there.

6 A Right here.

7 Q "Soapstone/talc was used extensively all over
8 the BFGoodrich plant. (See affidavit of James
9 Clark.) Talc/soapstone was commonly
10 contaminated with asbestos as was evidenced by
11 BFGoodrich's own laboratory analyses. Robert
12 Moddrell, a former BFGoodrich Industrial
13 Hygienist has testified that the talc used at
14 BFGoodrich contained asbestos."

15 Do you see that?

16 A Yes.

17 Q Okay. And it says, if you go to the bottom of
18 page 15, "BFGoodrich did not create a 'no
19 asbestos' talc specification until seven years
20 later. Also, BFGoodrich did not remove
21 asbestos-containing 'White Talc' from Southern
22 Talc Company --" withdrawn.

23 It says, "Also, BFGoodrich did not remove
24 asbestos-containing 'White Talc' from Southern
25 Talc Company from its supplier list until

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1 1980."

2 Do you see that?

3 A Yes.

4 Q So there's Southern Talc. So Mr. Bevan knows
5 that there's talc used at BFGoodrich, knows
6 that some of the talc has asbestos, and in fact
7 knows that Southern Company has asbestos in it.

8 In fact, if you turn to Exhibit 26 -- may
9 I turn it for you?

10 A Yes, please.

11 Q If you turn to Exhibit 26, Mr. Bevan -- it's
12 Exhibit 12A, for the record.

13 Mr. Bevan includes a document showing --
14 that states "Recent Raw Materials investigation
15 has found that all talc supplied by Southern
16 Talc Company contain significant amounts of
17 asbestos-like particles (tremolite)."

18 Do you see that?

19 A Yes.

20 Q Okay. So does that refresh your recollection,
21 going back to D Ex. 11, as to whether Southern
22 Talc Company, which supplied BFGoodrich, had
23 asbestos in its talc?

24 A It does not refresh my recollection, no.

25 Q But you know now that Southern Talc Company was

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1 one of the seven defendants that settled with
2 your mother's estate for \$2,000, correct?

3 A Yes.

4 Q Even though Southern Talc was known by
5 Mr. Bevan to have asbestos in its talc,
6 correct?

7 A Yes.

8 Q Turning back to Exhibit 11, the second page of
9 this letter.

10 A This is 10.

11 Q This is 10. I think it's right there.

12 A Oh, okay.

13 Okay.

14 Q The second to last paragraph says, "Tom, I have
15 noticed on CLAD that in the past week you have
16 filed numerous Master Consolidated Complaints
17 naming this group of Defendants. From the
18 information you previously provided to me, it
19 is apparent that nearly all, if not all, of the
20 Plaintiffs represented on these new Master
21 Consolidated Complaints were employees where
22 there were obviously no talc exposures."

23 Do you see that?

24 A I see that.

25 Q So as a class representative, do you have any

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1 understanding about whether Mr. Bevan and
2 Mr. Placitella think that people who filed
3 cases against talc companies in which there was
4 no talc exposure are part of this class?

5 MR. COREN: Objection as to
6 form.

7 A And I have no information on it.

8 Q Who would know that, Mr. Bevan?

9 A Mr. Bevan and/or Mr. Coren.

10 Q But you and I talked earlier about people,
11 other class members, and being paid when they
12 weren't harmed. Do you remember we had that
13 whole back and forth about "if" and you were
14 having --

15 A Yes.

16 Q -- trouble understanding the "if"? Okay.

17 So here's a document in which it's saying
18 that people are filing complaints against talc
19 companies where the people where actually never
20 exposed to talc. Do you see that?

21 A That's what it says.

22 Q Okay. And so now we don't have a hypothetical,
23 we have a situation where you as a class
24 representative know people are filing cases in
25 which they were never even exposed to talc.

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1 MR. COREN: Objection.

2 Where does it say that?

3 Q Do those people get compensation as part of the
4 class?

5 MR. COREN: Objection as to
6 form.

7 A You're saying that based upon the documentation
8 that these particular plaintiffs were not --

9 Q Exposed to talc.

10 A Exposed to talc. So what do you want from me?
11 What are you asking?

12 Q Well, as the class representative, let's say
13 you have a pile of money at the end.

14 A Uh-huh.

15 Q Let's say you have a million dollars and you
16 have to divide it up amongst class members. So
17 do you think that people who are class members
18 who were actually never exposed to talc deserve
19 to get some money?

20 A If they were in fact never exposed to talc, but
21 based upon the basis of the lawsuit, I
22 really -- I really don't see me being able to
23 answer that question, I really don't.

24 Q Well, let's say -- let's put it the other way.

25 A Okay.

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1 Q For people who were exposed to asbestos and
2 talc, like Georgia -- Southern's talc --

3 A Right.

4 Q -- because we now know that Southern Talc
5 Company is rife with asbestos.

6 A Right.

7 Q Okay. So somebody works with that talc for 20
8 years and develops meso and you have a limited
9 amount of money at the end. Do you think the
10 meso victim should get less money because
11 people who were never exposed to talc are going
12 to make claims? How is that fair?

13 MR. COREN: Objection to
14 form.

15 A I'm still not certain how I would factually be
16 able to answer about fairness, in particular --
17 you know, we know that the basis is if they're
18 exposed to talc. But to me, again, this is
19 what I say, the supposition questions, I mean,
20 I just don't see how I can fairly answer them.

21 Q But you're the class representative.

22 A I'm the class representative on this particular
23 case. Are you saying that in this particular
24 case we're not talking about being harmed by
25 asbestos?

1 Q I'm asking you as a class rep do you think that
2 people who were never exposed to talc --

3 A If they were never exposed to talc, based upon
4 accepted practices, then no, I don't think they
5 would be entitled to compensation, but to add
6 to that, I don't see how I really would make
7 that determination.

8 Q You would need the Court to help you?

9 A There you go. Yes.

10 Q Okay. And if the Court were to determine that
11 people were never exposed to my client's talc,
12 Emtal talc, and the Court determined that, you
13 would agree that, yeah, they shouldn't get
14 money either?

15 A If the Court determined that?

16 Q Yes. Correct?

17 A Yes.

18 (Defendants' Exhibit 13 was marked.)

19 Q Let's go to D Ex. 13.

20 A Okay.

21 Q D Ex. 13 is the deposition of Kathryn Darnell
22 on June 18, 2001.

23 A Okay.

24 Q Okay.

25 A The date again?

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1 Q January 18, 2001.

2 A January.

3 Q Yes, sorry.

4 A It wouldn't have been June, no.

5 Q Sorry. Could you turn to page 47?

6 A 47?

7 Q Yep.

8 A Okay.

9 Q And it's their question to Ms. Darnell about
10 her exposure to real asbestos in the BFGoodrich
11 plant.

12 Line 6, question, "What were in the bags,
13 ma'am?"

14 Answer, "Asbestos."

15 Question, "Just raw asbestos?"

16 Answer, "Raw asbestos, 50-pound bags.

17 And it was written right on the bags what it
18 was, heck, we didn't know that it was dangerous
19 or anything like that."

20 Do you see that?

21 A Yes.

22 Q Okay. You understood that Ms. Darnell was in
23 fact exposed to real asbestos in the BFGoodrich
24 plant?

25 MR. COREN: Objection as to

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1 form.

2 A Yes.

3 Q And that's part of the reason why for the last
4 15 or so years you've helped Mr. Bevan recover
5 money from various companies for
6 asbestos-related injuries, correct?

7 A That's correct.

8 Q Now would you turn to page 113?

9 A In the same document?

10 Q Yes, ma'am.

11 And line 23, page 113 at the bottom.

12 A Uh-huh.

13 Q It says, "Do you draw a distinction, ma'am,
14 between soapstone and talc?"

15 Answer, "And talcum?"

16 Question, "Talc, do you know what talc
17 is?"

18 Answer, "No."

19 Question, "Okay."

20 "You're talking about talcum?"

21 Question, "I'm talking about a material
22 that is used in some industries that is
23 referred to as talc, T-A-L-C."

24 Answer, "I've never heard of it."

25 Do you see that?

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1 A Yes.

2 (Defendants' Exhibit 14 was marked.)

3 Q And then if we go to D Ex. 14, the next
4 deposition, January 22, 2001.

5 A Okay.

6 Q And if you turn to page 226, I want to refer
7 you to a statement by Mr. Bevan at the bottom.

8 A Page 226?

9 Q Yes.

10 A Okay.

11 Q Mr. Bevan says, "Brent, we stipulated and we
12 will stipulate again that she doesn't know the
13 brand name, manufacturer, distributor or
14 supplier of any insulation products, as well as
15 any soapstone products as well."

16 Do you see that?

17 A No. Where is it? You said on 226?

18 Q Right at the bottom.

19 A Oh, okay. Okay.

20 Yes.

21 Q Does that refresh your recollection as to
22 whether your mother didn't know the name of any
23 of the talc manufacturers that she was exposed
24 to?

25 A Again, I was not part of those conversations.

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1 Q Would Mr. Bevan be the best person to talk to?

2 A Yes, he would be.

3 Q It's time for lunch.

4 A Okay.

5 Q We're taking a lunch break.

6 A Okay.

7 Q Okay. Is that okay with you?

8 A That's fine with me.

9 Q Okay. Great.

10 MR. ASSAF: Let's go off
11 the record.

12 THE VIDEOGRAPHER: Off the record.
13 The time is 12:30.

14 (Recess taken.)

15 THE VIDEOGRAPHER: We're back on
16 the record. The time is 1:08.

17 BY MR. ASSAF:

18 Q Good afternoon.

19 A Good afternoon.

20 Q Did you discuss your deposition testimony over
21 lunch?

22 A No.

23 Q Did you review any documents --

24 A No.

25 Q -- over lunch? Okay.

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1 I'm going to show you again Defendants'
2 Exhibit 6 and Defendants' Exhibit 8, the
3 correspondence to and from Bevan regarding
4 settlement with seven top defendants and
5 regarding the Kathryn Darnell complaint.

6 A You said 6?

7 Q I'm going to give it to you.

8 A Okay.

9 Q So let's start with D Ex. 6.

10 A All right.

11 Q D Ex. 6 is February 15, 2001 and it's entitled
12 Re: Kathryn Darnell Complaint. Do you see
13 that?

14 A Yes.

15 Q So would this be part of your files? Would
16 Mr. Bevan have sent you a copy of this?

17 A No. This was February 15, '01. Mom passed --

18 Q Right.

19 A -- in June of '01. So it would have been with
20 her.

21 Q But did you take her files, her litigation
22 files --

23 A No.

24 Q -- when she passed?

25 A No.

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1 Q Where are they?

2 A I think they're at the family home. I'm not
3 sure. I'm not sure, but I think they're at the
4 family home where one of my sisters lives.

5 Q Okay. Do they still exist?

6 A Oh, yes. Yes.

7 Q Okay. And could you -- could you work with
8 Mr. Coren to get those -- to have somebody
9 review those documents?

10 A Yes, I would be able to do that.

11 Q Great. Thank you.

12 A Uh-huh.

13 Q Now, and also -- so you see it's entitled
14 Kathryn Darnell Complaint?

15 A Uh-huh.

16 Q The re line.

17 A Uh-huh.

18 MR. ASSAF: Mr. Coren and
19 Mr. Placitella, do you have any reason why this
20 wasn't produced or logged? D Ex. 6. The
21 letter entitled Kathryn Darnell Complaint.

22 MR. COREN: Is this 6?

23 MR. ASSAF: Yes, that's 6.

24 MR. COREN: Your question
25 is, I'm sorry, what?

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1 MR. ASSAF: Why that wasn't
2 produced or logged. I just checked over the
3 lunch break and it hasn't been produced and it
4 hasn't been logged.

5 MR. COREN: I'll have to
6 look into it, Gene, I don't know.

7 MR. ASSAF: Okay.

8 Q And also, then, D Ex. 8, which I'm going to put
9 also in front of you, which again, is Bevan
10 correspondence settlement with seven talc
11 defendants.

12 MR. ASSAF: And as we said,
13 Ms. Darnell's mentioned throughout the letter,
14 and I just don't -- I'm now concerned.

15 It just dawned on me over lunch that this
16 wasn't produced or logged and how could that
17 be? There's only six named plaintiffs and this
18 is -- you met with Bevan prior to the
19 complaint, you've met with Bevan since. She --
20 Bevan is Ms. Holley's lawyer. He has all the
21 files. How could it be that this isn't
22 produced or logged?

23 MR. COREN: Gene, we'll
24 take a look into it, whether the document still
25 exists or not, because of the date and the

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1 timing of the things, I'll have to look into it
2 and see.

3 MR. ASSAF: And will you
4 also agree to look at Ms. Holley's documents,
5 both at her home and at the family home, the
6 underlying -- I hesitate to say what I really
7 think, but how could they not be even reviewed,
8 yet alone put aside so that nothing happens to
9 them? It's one of the named plaintiffs in the
10 case.

11 MR. COREN: Gene, we'll
12 talk about this later.

13 BY MR. ASSAF:

14 Q Now, you mentioned when you met with
15 Mr. Placitella and Mr. Bevan when you first
16 heard about the case and you took notes that
17 you hopefully still have at home, do those
18 notes have who else was at the meeting?

19 A No.

20 Q Okay. How did you find out about the meeting?

21 A I was either contacted by phone or mail to come
22 to the meeting.

23 Q By Mr. Bevan or Mr. Placitella?

24 A By Mr. Bevan's office.

25 Q Did you know what the topic of the meeting was?

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1 A Not at the time that I received notice.

2 Q Have you ever been in Mr. Placitella's offices
3 in Pennsylvania or New Jersey?

4 A No.

5 Q Are you willing to come to New Jersey for court
6 proceedings?

7 A Yes. We discussed that.

8 Q Okay. Have you had any meetings with the class
9 representatives without the attorneys present?

10 A Not without attorneys present, no.

11 Q Do you know whether any of the other
12 attorneys -- withdrawn.

13 Do you know whether any of the other
14 class representatives have written fee
15 agreements with Mr. Placitella?

16 A I would not have that information.

17 MR. ASSAF: I'll reiterate
18 this request. We've looked over lunch, and the
19 written fee agreement, which I understand is a
20 requirement under New Jersey, but you can tell
21 me --

22 MR. COREN: Yes, but --

23 MR. ASSAF: -- is neither
24 logged, nor produced.

25 MR. COREN: Nor are they

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1 filed with the Court until the Court asks to
2 see them.

3 MR. ASSAF: Do you have
4 one?

5 MR. COREN: What, a fee
6 agreement?

7 MR. ASSAF: Yeah.

8 MR. COREN: Yes. My
9 understanding we do, yes.

10 MR. ASSAF: Okay.

11 MR. COREN: Okay.

12 Q So you do have a written fee agreement.

13 A Okay.

14 Q Okay.

15 MR. ASSAF: Could
16 Ms. Holley have a copy of it?

17 MR. COREN: She probably
18 does but doesn't recollect.

19 A That could possibly be the case.

20 Q Okay. Do you have any understanding of the
21 terms?

22 A Understanding based on that particular fee
23 agreement or do I understand a fee agreement?

24 Q Well, let's do both.

25 A Okay.

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1 Q Do you understand a fee agreement?

2 A Yes, I do.

3 Q What's that?

4 A The fee agreement is the document between an
5 attorney and client, okay, stipulating how
6 they're going to handle the case and possibly
7 the amount or if it's contingency.

8 Q Contingency. And do you know whether the
9 Williams case is a contingency case?

10 A I'm not certain. I really am not certain. I
11 don't recall -- I just don't recall in this
12 particular defendant. I don't recall any of
13 the documents or anything that was presented.
14 Because I think that was -- I believe it was
15 all done while my mom was still living.

16 Q But with respect to this Williams case, the
17 case in New Jersey.

18 A Oh, okay. Okay.

19 Q What do you recall about the fee agreements in
20 that case?

21 A I have no recollection of the fee agreement in
22 this particular case.

23 Q Do you even have a general understanding of how
24 much you're entitled to recover?

25 A Those things have not been discussed with me

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1 either by them or Mr. Bevan. We have not -- I
2 have not discussed fees in this case.

3 Q Or your recovery?

4 A No.

5 Q So --

6 A If I understand what you're saying.

7 Q Let's make it clear, though.

8 A Okay.

9 Q As we sit here today, you have not had any
10 discussions with Mr. Placitella and Mr. Coren's
11 firm or Mr. Bevan's firm about what the fee
12 arrangements are, in terms of the fees and the
13 recovery in this case?

14 A No.

15 Q And how do you think that's all going to get
16 sorted out?

17 MR. COREN: Objection.

18 Gene, you know, you're now --

19 MR. ASSAF: No speaking

20 objections. Do you have an objection?

21 MR. COREN: Yeah, I have an

22 objection --

23 MR. ASSAF: What is it --

24 MR. COREN: -- because

25 you're --

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1 MR. ASSAF: -- form,

2 foundation, or privilege?

3 MR. COREN: Form,

4 foundation, and privilege.

5 MR. ASSAF: Okay. You're

6 instructing her not to answer?

7 MR. COREN: Correct.

8 MR. ASSAF: Okay. Basis?

9 MR. COREN: You know,

10 privilege.

11 MR. ASSAF: Attorney-client

12 privilege?

13 MR. COREN: Yeah.

14 Attorney-client privilege, because now you need

15 to invade into discussions that occurred

16 regarding, you know, aspects of the fees.

17 MR. ASSAF: She doesn't --

18 she has no -- she has no -- there are no

19 discussions because she has no -- she says

20 she --

21 MR. COREN: That's right,

22 she has no recollection. She doesn't recall

23 it.

24 MR. ASSAF: Of any

25 discussions regarding fees?

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1 MR. COREN: She just

2 doesn't recollect --

3 MR. ASSAF: And the fee

4 agreement isn't logged or produced?

5 MR. COREN: You don't log

6 and you don't produce fee agreements, Gene.

7 It's not my experience, okay?

8 MR. ASSAF: Even Jared is

9 raising his eyebrows at that one. You better

10 check that.

11 MR. PLACITELLA: No --

12 Q Okay. So --

13 MR. PLACITELLA: -- based on

14 your comment, Gene but --

15 Q -- Ms. Holley, in terms of Mr. Bevan's
16 relationship to this Williams case in New
17 Jersey, do you have a written fee agreement
18 with him?

19 A I don't recall doing the written -- I don't
20 recall doing a fee agreement with regard to
21 this case.

22 Q Okay. Do you have any understanding of how
23 Mr. Bevan will get paid, if at all?

24 A I can't recall ever discussing that or seeing
25 anything in writing.

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1 Q Is that something you would -- withdrawn.

2 You seem pretty savvy and you've been
3 around litigation for 15 years. It seems like
4 something you would recall?

5 A Probably.

6 Q Let's see.

7 MR. ASSAF: And
8 verifications, have we gotten them?

9 MR. PLACITELLA: I have someone
10 in my office getting them. We'll get those to
11 you soon.

12 MR. ASSAF: Great.

13 Q All right. So let's turn to settlements with
14 other asbestos defendants.

15 Could you tell me in order of magnitude
16 how much you've received for asbestos-related
17 injuries since filing that lawsuit that we saw
18 against 98 defendants?

19 MR. COREN: I'm going to
20 instruct her not to answer for the reasons we
21 explained earlier, that the issue of the
22 settlement with other parties outside of the
23 settlements with the asbestos trust is an issue
24 that is before the Court on scope of discovery,
25 and I'm going to advise her not to respond

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1 until that issue is sorted out with magistrate

2 judge --

3 A And I consider that confidential.

4 Q You consider it confidential?

5 A I do. I consider it confidential.

6 Q Have you discussed your settlements with
7 anybody other than lawyers?

8 A No.

9 Q Like your family members?

10 A Not discussed settlements, just as fiduciary.
11 When there were settlements, I distribute the
12 checks.

13 Q And you've distributed checks over the last 15
14 years?

15 A Yes.

16 Q Do you have a -- withdrawn.

17 If your attorneys allowed you to answer,
18 would you be able to tell me how much you've
19 recovered from asbestos -- for asbestos-related
20 injuries?

21 A I would not be able to say that on the top of
22 my head, no.

23 Q But do you have documentation --

24 A I have --

25 Q -- to show it?

1 A -- documentation.

2 Q Would this be in the files at your home?

3 A It would be in my files.

4 Q And let's talk about trusts.

5 You mentioned that you have settled with
6 or made claims against asbestos trusts,
7 correct?

8 A I believe so, yes.

9 Q And which attorney, if anyone, has helped you
10 with those?

11 A That would also be Attorney Bevan.

12 Q And have you filled out documentation regarding
13 those asbestos trusts and claims to them?

14 A Yes, through the Probate Court, which has to
15 certify.

16 Q And as we sit here today, you understand that
17 the information contained in those submissions
18 to the Court and to the trust have to be -- has
19 to be true and accurate?

20 A Yes.

21 Q And do you know whether your mother had
22 submitted information to trusts prior to her
23 death?

24 A She did.

25 Q And do you know whether that was true and

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1 accurate?

2 A To the best of my knowledge it would have been.

3 Q Would that have been reviewed by Mr. Bevan to
4 ensure that it was true and accurate?

5 A To the best of my knowledge it would have been.

6 (Defendants' Exhibit 15 was marked.)

7 Q Let me show you D Ex. 15, which I think is the
8 next document --

9 A Okay.

10 Q -- to your right, Ms. Holley.

11 A Okay.

12 Q D Ex. 15 is a claim form for discounted cash
13 payment dated September 6, 2000.

14 A Uh-huh.

15 Q And the attorney name on the front is Tom
16 Bevan. Do you see that?

17 A Yes.

18 Q Have you seen this document before?

19 A I don't recall seeing this document before.

20 Q Would this be in your files or your mother's
21 files at the family home?

22 A Because it was 2000, it would probably be at
23 the family home.

24 Q Okay. Could you turn to page 13 of the form?
25 This right here. That's it.

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1 And number five, paragraph 5, states
2 "Injured party may write a narrative statement
3 below (or on a separate page) describing in
4 greater detail injured party's most significant
5 asbestos exposure."

6 It says, "Ms. Darnell was exposed to J-M
7 pipe covering, cement, and raw asbestos fiber
8 while employed by the BFGoodrich Company from
9 1969 to 1987."

10 Do you see that?

11 A Yes.

12 Q There's no mention of talc.

13 A Okay.

14 Q Do you know why?

15 A No. I wouldn't know why.

16 Q Would Mr. Bevan know?

17 A I'm not sure.

18 Q If anybody knows the reason why this says what
19 it says, it would be Mr. Bevan, not you?

20 A It would be him, not me.

21 Q And if you turn to page 17.

22 A Of the same document?

23 Q Yes.

24 And the first question says, "Has any
25 asbestos-related lawsuit been filed on behalf

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1 of this injured party?"

2 Do you see this?

3 A Yes.

4 Q It says "No."

5 Do you see that?

6 A Yes.

7 Q Is that correct?

8 A This was in 2000?

9 Q Yes. Yes.

10 A I wouldn't know for sure. I wouldn't know for
11 sure, because my mom was still living and the
12 interaction with the attorney would have been
13 between her and Attorney Bevan.

14 Q Who, if anyone, would know whether this
15 statement is correct?

16 A Attorney Bevan's office.

17 Q And you would expect it to be true and
18 accurate, correct?

19 A I would expect it to be true and accurate, yes.

20 Q And when you've submitted forms to other
21 trusts, have you disclosed the fact that you
22 have in fact filed other lawsuits against other
23 asbestos companies?

24 A I can't recall that.

25 Q But you would expect that if that question were

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1 asked by other trusts that you would in fact
2 disclose the other lawsuits, correct?

3 A I would expect so if that were the case.

4 Q And you've never received advice to do
5 something other than that?

6 A No, I have not.

7 Q That's something you would remember?

8 A I believe so.

9 Q The -- by the way, if you -- withdrawn.

10 Did you file a claims form with the
11 Kaiser Asbestos Trust? Do you know?

12 A I can't say for sure.

13 Q Okay. Roughly how many trusts have you filed
14 against?

15 A I couldn't begin to say. I know that there
16 were a number of defendants sued and there are
17 a number that have been settled, but I really
18 couldn't even give you a ballpark figure.

19 (Defendants' Exhibit 16 was marked.)

20 Q Let's go to D Ex. 16, the very next document.

21 A Okay.

22 Q D Ex. 16 appears to be a document entitled
23 "Kaiser Aluminum & Chemical Corporation
24 Asbestos Personal Injury Trust Release."

25 Do you see this?

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1 A Uh-huh. Yes.

2 Q Do you recognize this document?

3 A Well, by just looking at it now I see that I
4 signed in 2012.

5 Q And would you tell me the process that you
6 would go through before signing a document like
7 this? Did you talk to Mr. Bevan? Did you
8 review documents?

9 A I would talk to Mr. Bevan and we would discuss
10 the particular offer from the company. And I
11 also -- if it were accepted, I also would have
12 received a release.

13 Q Okay. All right. Now the rest of the
14 documents I'm going to go through pretty
15 quickly. You can put them all in front of you
16 if you'd like --

17 A Right.

18 Q -- to --

19 A Right.

20 Q -- Ms. Holley.

21 A Right.

22 (Defendants' Exhibit 17 was marked.)

23 Q D Ex. 17 is a document entitled -- or a
24 document that appears to be a release relating
25 to Johns-Manville of Travelers.

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1 A Uh-huh. Uh-huh.

2 Q Do you recognize this document?

3 A Yes, I recall it.

4 (Defendants' Exhibit 18 was marked.)

5 Q D Ex. 18 appears to be a claims resolution form
6 for Kathryn Darnell for \$20,000 for Manville.

7 A When was this? This was executed when?

8 Q This looks like it was executed in 2000. 10 --
9 November 11, 2000.

10 A If it were 2000, my mother would have handled
11 it.

12 Q Okay. All right.

13 (Defendants' Exhibit 19 was marked.)

14 Q D Ex. 19 is from The Plibrico Asbestos Trust in
15 Hopewell, New Jersey. A settlement -- a
16 liquidated value of \$350,000 and a settlement
17 amount of \$29,000. Do you recognize this
18 document?

19 A It appears I executed this in September of '07.

20 Q Okay.

21 (Defendants' Exhibit 20 was marked.)

22 Q D Ex. 20 is a release agreement for Owens
23 Corning/Fibreboard Asbestos Injury Trust.

24 A I executed this in '09.

25 Q And -- let me finish these.

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1 (Defendants' Exhibit 21 was marked.)

2 Q D Ex. 21 is for Owens Corning Personal Injury
3 Trust again dated November 18, 2009. Do you
4 see that?

5 A Uh-huh. Uh-huh.

6 (Defendants' Exhibit 22 was marked.)

7 Q D Ex. 22 is for United Gypsum Asbestos Personal
8 Injury Trust.

9 A Okay.

10 Q Dated March 23, 2009.

11 A Okay.

12 Q Do you see that?

13 A Yes.

14 Q You signed that?

15 A Yes.

16 (Defendants' Exhibit 23 was marked.)

17 Q D Ex. 23 is from the Probate Court of Summit,
18 Ohio regarding the approval of a proffered
19 settlement of \$257,000. And included in that
20 is -- it looks like attorney's fees of \$88,000.

21 A Right. Uh-huh.

22 Q Is that to Mr. Bevan?

23 A It would have been Mr. Bevan and the estate
24 attorney, who at that time was Donald Walker.

25 Q Okay.

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1 (Defendants' Exhibit 24 was marked.)

2 Q D Ex. 24 is a settlement amount of \$60,000,
3 again with 20,000 to Mr. Bevan in 2004. Do you
4 see this?

5 A Yes.

6 (Defendants' Exhibit 25 was marked.)

7 Q D Ex. 25 is a settlement amount of \$172,000
8 with attorney's fees of \$59,000 dated April 20,
9 2005.

10 A Yes.

11 (Defendants' Exhibit 26 was marked.)

12 Q D Ex. 26 is \$16,000 dated -- or I'm sorry.
13 \$16,000 dated August 4, 2006. Do you see that?

14 A Uh-huh.

15 (Defendants' Exhibit 27 was marked.)

16 Q D Ex. 27. \$40,000 settlement dated May 21,
17 2007. Do you see that?

18 A Yes.

19 (Defendants' Exhibit 28 was marked.)

20 Q D Ex. 28, a settlement amount of \$29,000 dated
21 November 15, 2007. Do you see that?

22 A Yes.

23 (Defendants' Exhibit 29 was marked.)

24 Q December 22, 2008, a settlement amount of
25 \$11,000. Do you see that?

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1 A Is that 29?

2 Q Yes.

3 A Okay. Yes.

4 (Defendants' Exhibit 30 was marked.)

5 Q D Ex. 30. \$26,000, April 16, 2010. Do you see
6 that?

7 A Yes.

8 (Defendants' Exhibit 31 was marked.)

9 Q D Ex. 31. Settlement amount of \$8,600 dated
10 May 12, 2012. Do you see that?

11 A Yes.

12 Q And, by the way, so for a settlement like that
13 of \$8,000, do you know whether that settlement
14 has anything to do with whether the company
15 produced a product with or without asbestos and
16 how much asbestos it had and how much exposure
17 your mom had to that product?

18 MR. COREN: Objection.

19 I'll instruct her not to answer. Once again,
20 the issue of settlements and the issues going
21 into settlements is a matter before Magistrate
22 Dickson, and we're retaining our objections and
23 instructing the witness not to answer on that
24 basis.

25 Q Could you answer the question but for the

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1 instruction?

2 MR. COREN: It's a "yes" or
3 "no" answer, Ms. Darnell -- Ms. Holley. Sorry.

4 Q You would be able to answer the question unless
5 Mr. Coren hadn't instructed you?

6 A I believe I would be able to.

7 Q Okay.

8 (Defendants' Exhibit 32 was marked.)

9 Q D Ex. 32. \$34,000. Another settlement amount.
10 Do you recognize that?

11 A Yes.

12 (Defendants' Exhibit 33 was marked.)

13 Q D Ex. 33. \$16,000. Do you recognize that?

14 A Yes.

15 (Defendants' Exhibit 34 was marked.)

16 Q D Ex. 34. An amended probate order for a
17 settlement amount of \$2,300. Do you recognize
18 that?

19 A Yes.

20 (Defendants' Exhibit 35 was marked.)

21 Q D Ex. 35. A settlement amount of \$11,000 dated
22 April 13, 2015. Do you recognize that?

23 A Yes.

24 (Defendants' Exhibit 36 was marked.)

25 Q D Ex. 36. A settlement amount of \$19,000 dated

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1 April 15, 2004. Do you recognize that?

2 A Yes.

3 (Defendants' Exhibit 37 was marked.)

4 Q D Ex. 37. A settlement amount of \$24,000 dated
5 April 27, 2010. Do you recognize that?

6 A Yes.

7 (Defendants' Exhibit 38 was marked.)

8 Q January 20, 2010, a settlement amount of
9 \$113,000. Do you recognize that?

10 A Is that --

11 Q D Ex. 38.

12 A Yes, I see it's 38.

13 Q Okay.

14 A Yes.

15 Q In terms of the various settlements, did you
16 rely on Mr. Bevan's advice before consenting to
17 settlements with other asbestos-related
18 defendants?

19 A Is the question did I rely on that with
20 relation to other settlements or just one
21 particular settlement at a time?

22 Q One particular settlement at a time.

23 A We did one particular settlement at a time.

24 Q So for each settlement you would have a
25 discussion with him regarding whether you

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1 should settle or not?

2 A I'd say yes, that would be a basis of our
3 conversation.

4 Q Would it be in person or over the phone?

5 A Either.

6 Q And would a factor in the settlement be whether
7 in fact the defendant had produced a product
8 with asbestos?

9 MR. COREN: Objection.

10 Once again you're asking about settlements
11 beyond BASF.

12 And I'm instructing you not to answer.

13 The matter is an issue before the judge
14 on settlements with other parties other than
15 BASF.

16 Engelhard is a matter before Magistrate
17 Judge Dickson and until that is resolved, I'm
18 instructing you not to answer.

19 Q Was it always Bevan or were there other lawyers
20 or paralegals involved in the recommendation to
21 settle cases?

22 A To the best of my knowledge, it was always
23 Attorney Bevan.

24 Q And did you keep notes of those conversations?

25 A No.

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1 Q Since the BASF complaint was filed in two
2 thousand -- in early 2011, have you settled
3 with other defendants for asbestos-related
4 claims?

5 A Yes.

6 Q And in settling with those, have you, in light
7 of the BASF complaint, asked specific questions
8 about the asbestos content in the products that
9 you were settling?

10 A No, I have not asked specific questions with
11 regard to asbestos.

12 Q Why not?

13 A No. Because I --

14 MR. COREN: Excuse me.

15 THE WITNESS: Okay.

16 MR. COREN: Work-product.

17 THE WITNESS: Yeah.

18 MR. COREN: Okay. I'm

19 asserting an objection.

20 Q And you can answer.

21 MR. COREN: No. It's

22 work-product. She can't answer. I'm

23 instructing her not to answer.

24 MR. ASSAF: Why she didn't

25 ask questions?

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1 A No. No.

2 MR. COREN: It's her mental
3 processes.

4 MR. ASSAF: Her mental
5 processes?

6 MR. COREN: Yes. You're
7 trying to invade into her work-product
8 regarding a settlement and why she made -- and
9 what was on her mind as to things other than
10 BASF. You're not entitled to it, Gene. And
11 that's our position and we said that regarding
12 the other settlements.

13 It's a matter before Magistrate Judge
14 Dickson and until all of those issues are
15 resolved, I'm instructing her not to go into
16 details regarding other settlements.

17 Q After the BASF case was filed in 2011, you had
18 understood from Mr. Bevan that there had been a
19 fraud with Engelhard, fair?

20 A Yes. That was my understanding.

21 Q That -- according to Mr. Bevan, that Engelhard
22 led him to believe that there was no asbestos
23 in the talc, correct?

24 A That is my understanding.

25 Q Okay. In light of that understanding, did you,

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1 after the filing of the BASF complaint in 2011,
2 ask specific questions about whether a product
3 contained asbestos so that you wouldn't run
4 into another Engelhard situation?

5 MR. COREN: And it's the
6 same question that you had asked before, just a
7 little bit different when addressing, and I'm
8 giving her the same instruction. We're not
9 here to answer questions about her thought
10 processes regarding other settlements. It's an
11 issue that is before Magistrate Judge Dickson
12 and until it is resolved, we are not -- I'm
13 instructing her not to answer.

14 MR. MARINO: Michael, could
15 I ask you to speak up when you're talking?
16 It's hard to hear you over the phone.

17 MR. COREN: Sorry about
18 that. And I will try.

19 Q You mentioned that you believe the settlements
20 are confidential?

21 A Yes.

22 Q Do you have any written confidentiality
23 agreements in your custody, control, or
24 possession?

25 A I may have.

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1 Q And where would they be?

2 A They probably would be with my records.

3 Q The records that are at your house --

4 A At my house. The ones that I have, yes.

5 Q That Mr. Coren hasn't reviewed yet?

6 A I don't know if he's reviewed them or not.

7 Q Okay. Well, earlier you said he hadn't asked
8 you for them?

9 A Right. Yeah.

10 MR. ASSAF: And, Mr. Coren,
11 was she wrong there? Because let's correct the
12 record.

13 MR. COREN: What?

14 MR. ASSAF: Have you asked
15 her for her records?

16 MR. COREN: Yes, we have.

17 MR. ASSAF: Oh.

18 Q So he has asked you for your records?

19 A I don't recall it, that's what I'm saying. I
20 don't recall that he asked for specific
21 records. No, I don't recall that.

22 Q Because you've dealt with Mr. Bevan and
23 attorneys for 15 years, and if an attorney
24 asked you for records, it would be your normal
25 practice to tell them about the records, fair?

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1 A To give whatever they asked for if I had it.

2 Q Correct. So if you still -- if you haven't
3 given the records to Mr. Coren, based upon your
4 normal practice, doesn't that tell you he
5 hasn't asked for them?

6 MR. COREN: Objection.
7 It's argumentative.

8 MR. ASSAF: Not
9 argumentative. She said earlier you didn't ask
10 her for them and now after lunch you say you
11 did ask. Did you review them?

12 MR. COREN: I'm saying
13 we -- they were requested. Have we reviewed
14 them yet, I have to ask my staff who handled
15 it. I don't know.

16 MR. ASSAF: Well,
17 Mr. Coren, when is this going to happen?
18 Discovery's supposed to end in four months.
19 We've already been in front of the judge. You
20 filed your -- we've had extensive discovery
21 briefing and her deposition's today. When
22 exactly are you going to decide whether you're
23 going to review these documents or not?

24 MR. COREN: I'm not here to
25 argue with you, Gene. You're trying to, you

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1 know, and I'm not going to let you goad me into
2 an argument with you.

3 MR. ASSAF: It's not an
4 argument. I just want to know: When are you
5 going to review these documents?

6 MR. COREN: Well, I'm not
7 responding to you today.

8 Q By the way, going back to the Williams
9 settlement discussions that you heard about,
10 that there were the fact of discussions, would
11 you have anything in your materials so you're
12 able to put a date of when you heard about
13 those discussions?

14 A No, I wouldn't.

15 Q Okay. How would you have heard of them? By
16 phone or by mail or? By meeting?

17 A Probably by conversation, either in a meeting
18 or phone, but I don't -- I don't recall that.

19 Q And in terms of the settlement discussions in
20 the Williams case, as we sit here today --

21 A This particular case we're discussing?

22 Q Yes.

23 A Okay.

24 Q With respect to the settlement discussions in
25 this particular case, the Williams case, you

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1 identified at least two locations of documents
2 today, and there have been numerous
3 instructions not to answer.

4 So I'm done with my questioning for
5 today, but I'm holding open the deposition at
6 least on those topics and on any other
7 discovery issues that will arise, including
8 after Mr. Bevan's deposition.

9 Counsel, any questions?

10 MS. FIELDS: I have a few
11 questions on behalf of --

12 THE VIDEOGRAPHER: Get a
13 microphone on before you start.

14 MS. FIELDS: Oh.

15 MR. COREN: Excuse me. I
16 need to use the facility. I apologize. Can we
17 take a break for five?

18 MR. ASSAF: Sure.

19 MR. COREN: Thanks.

20 THE VIDEOGRAPHER: Off the record.

21 The time is 1:43.

22 (Recess taken.)

23 THE VIDEOGRAPHER: We're back on
24 the record. The time is 1:47.

25 EXAMINATION OF MARILYN HOLLEY

1 BY MS. FIELDS:

2 Q Ms. Holley, I have a few questions on behalf of
3 my clients, Cahill Gordon & Reindel and Ira
4 Dembrow and Peter Sloane.

5 When you talked with Mr. Assaf earlier, I
6 believe he asked you if other than what you've
7 learned from Mr. Bevan if you had any personal
8 knowledge that his client had done anything
9 wrong, and I'd like to ask you that same
10 question with respect to my client.

11 So other than what you've learned from
12 Mr. Bevan, do you have any personal knowledge
13 of any wrongdoing by Cahill Gordon & Reindel?

14 A I have no personal knowledge, no.

15 Q And other than what you've learned from
16 Mr. Bevan, do you have any personal knowledge
17 of any wrongdoing by Mr. Peter Sloane?

18 A No.

19 Q And I'll ask you the same question. Other than
20 what you've learned from Mr. Bevan, do you have
21 any personal knowledge of any wrongdoing by
22 Mr. Ira Dembrow?

23 A No.

24 Q Do you know who Peter Sloane is?

25 A I believe he's an attorney.

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1 Q Uh-huh.

2 A That was involved in this originally. I'm not
3 sure.

4 Q Have you had any personal contact with
5 Mr. Sloane?

6 A No. No.

7 Q And what is the factual basis for your belief
8 that Mr. Sloane's an attorney?

9 A In review of documents I saw his name.

10 Q Okay. Which documents were those?

11 A The documents I've reviewed recently. I think
12 he was referred to in the complaint.

13 Q Okay. And with respect to the complaint, do
14 you have any personal knowledge concerning any
15 allegations in the complaint about Cahill
16 Gordon & Reindel?

17 A No personal knowledge, no.

18 Q And do you have any personal knowledge of any
19 allegations in the complaint concerning Peter
20 Sloane?

21 A No.

22 Q And then I take it that you also have no
23 personal knowledge of any allegations in the
24 complaint concerning Ira Dembrow?

25 A No.

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1 Q Okay. Oh, just a few clean up questions.

2 Can you tell me the address of your
3 family home?

4 A 1000 Moeller Avenue. Moeller is spelled
5 M-O-E-L-L-E-R. It's avenue. And that's Akron,
6 Ohio 44307.

7 Q 44307?

8 A Correct.

9 Q And is that where you reside?

10 A No. One of my sisters resides there.

11 Q Okay. And what is her name?

12 A Cheryl with a -- C-H-E-R-Y-L. Last name is
13 Woolridge, W-O-O-L-R-I-D-G-E.

14 Q Okay. And that's the location that you
15 referred to before where you think that maybe
16 your mother's documents from her legal affairs
17 might be kept?

18 A Yes.

19 Q At this time that's the questions that I can
20 ask you today.

21 MS. FIELDS: We're going to
22 hold open, obviously, our questions. We came
23 prepared to depose the witness, but since we've
24 learned that there are additional documents
25 that we weren't aware of, we're obviously going

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1 to wait to ask the balance of our questions
2 until we have all of the material.

3 Additionally, there were plenty of
4 objections, the validity of which will be ruled
5 upon at a later date and we may find ourselves
6 back here.

7 Q So at this point that's all that I have for
8 you.

9 A Okay.

10 Q So thank you.

11 A Uh-huh.

12 MR. COREN: Eric or John.

13 MR. TUNIS: This is Eric.

14 I have a few questions for Ms. Holley.

15 THE WITNESS: Okay.

16 EXAMINATION OF MARILYN HOLLEY

17 BY MR. TUNIS:

18 Q Good afternoon, Ms. Holley.

19 A Good afternoon.

20 Q My name's Eric Tunis. I represent Thomas
21 Halket in connection with the Williams
22 litigation.

23 Are you familiar with the name Thomas
24 Halket?

25 A Only I think by seeing it on documents, but I

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1 don't know if he's a plaintiff or what his role
2 is.

3 Q I see. Okay.

4 Do you recall approximately -- the
5 approximate date in which your mother was
6 diagnosed with mesothelioma?

7 A No, not exactly. Actually, I believe it would
8 have been sometime in 2000, but I'm not certain
9 of the date, no.

10 Q Was she working at BFGoodrich at the time? Do
11 you recall that?

12 A No. She had retired.

13 Q Okay. She retired in 1987, is that correct?

14 A Correct. In 1987.

15 Q And was Mr. Bevan or his law firm the first
16 firm that she retained in connection with her
17 claims relating to her exposure to asbestos?

18 A To the best of my knowledge, he is the first
19 one.

20 Q And do you know when your mother retained
21 Bevan's firm?

22 A I could only guess '99 or 2000. I'm not sure.
23 I'm not sure.

24 Q Well, do you think that she retained Mr. Bevan
25 before she was diagnosed with mesothelioma?

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1 A I don't know. I'd hate to say. I don't know.

2 Q But it would have been around the time that she
3 was diagnosed, is that fair to say?

4 A I would say that's fair to say.

5 Q Do you know whether she personally contacted
6 anyone, either with BFGoodrich or any of the
7 manufacturers of asbestos products that you
8 believe she was exposed to?

9 A I could only speculate. I have no personal
10 knowledge of that.

11 Q Okay. And do you have any idea when the Bevan
12 firm might have contacted Engelhard regarding
13 your mother's claims related to her exposure to
14 asbestos?

15 A Again, because I was not involved in the
16 Engelhard settlement, I could only guess that
17 it was 2000, 2001. I'm really not certain.

18 Q All right. I don't have any questions -- any
19 other questions at this time.

20 MR. COREN: John.

21 MR. BOYLE: Hi. This is
22 John Boyle. We don't have any other questions
23 at this time, although we reserve for the same
24 reasons as everyone else does.

25 MR. PLACITELLA: Just for the

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1 record, counsel, we sent over the verifications
2 to BASF's answers to interrogatories. I sent
3 the emails. Did you guys receive that?

4 MR. FARRELL: I see an email
5 now with Ms. Holley's verifications. I don't
6 see them for the other plaintiffs.

7 MR. PLACITELLA: Right. For
8 Ms. Holley's.

9 MR. FARRELL: Do you have the
10 ones for the other plaintiffs?

11 MR. PLACITELLA: I'll have to
12 track down. I just asked my office for
13 Ms. Holley's.

14 MR. TUNIS: Have you sent
15 them to the other defendants?

16 MR. PLACITELLA: Yes, you should
17 have a copy there.

18 MS. FIELDS: Not the
19 verifications to the other defendants' --

20 MR. PLACITELLA: Right.

21 MS. FIELDS: -- discovery
22 but to BASF's.

23 MR. PLACITELLA: Correct.

24 MR. FARRELL: Was this sent
25 to us before?

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1 MR. PLACITELLA: We sent those
2 just now.

3 MR. FARRELL: Had you
4 previously sent it to us?

5 MR. PLACITELLA: Not that I
6 recall.

7 MR. GEYERMAN: So on behalf of
8 the Cahill defendants, we want the verification
9 to the Cahill defendants' interrogatories when
10 you locate the verification, if there is a
11 verification.

12 MR. PLACITELLA: Of course.

13 MR. TUNIS: Same with
14 respect to Mr. Halket.

15 MR. COREN: Well, there
16 being no other questions, I guess that's it for
17 today.

18 THE VIDEOGRAPHER: We're off the
19 record at 1:55.

20 (Deposition was concluded at 1:55 p.m.)

21 (Signature reserved.)

22

23

24

25

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1 THE STATE OF OHIO,) SS:
2 COUNTY OF CUYAHOGA.)
3

4 I, Sarah R. Drown, a Notary Public within and
5 for the State of Ohio, duly commissioned and
6 qualified, do hereby certify that MARILYN HOLLEY,
7 was first duly sworn to testify the truth, the whole
8 truth and nothing but the truth in the cause
9 aforesaid; that the testimony then given by her was
10 by me reduced to stenotypy in the presence of said
11 witness, afterwards transcribed on a
12 computer/printer, and that the foregoing is a true
13 and correct transcript of the testimony so given by
14 her as aforesaid.

15 I do further certify that this deposition was
16 taken at the time and place in the foregoing caption
17 specified. I do further certify that I am not a
18 relative, counsel or attorney of either party, or
19 otherwise interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and affixed my seal of office at Cleveland, Ohio, on
22 this 11th day of April, 2017. *Sarah Drown /R/*

23 Sarah R. Drown, Notary Public
24 within and for the State of Ohio
My Commission expires April 22, 2017.

25

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1 THE STATE OF)
2 COUNTY OF) SS:
3
4
5

6 Before me, a Notary Public in and for said
7 state and county, personally appeared the
8 above-named MARILYN HOLLEY, who acknowledged that
9 she did sign the foregoing transcript and that the
10 same is a true and correct transcript of the
11 testimony so given.

12 IN TESTIMONY WHEREOF, I have hereunto affixed
13 my name and official seal at
14 this day of
15 , 2016.
16
17
18

19 MARILYN HOLLEY

20
21 Notary Public

22 My Commission expires:
23
24
25

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1	DEPOSITION ERRATA SHEET		
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